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LAWS OF MICHIGAN RELATING TO WOMEN

LANSING, MICHIGAN
STATE PRINTER
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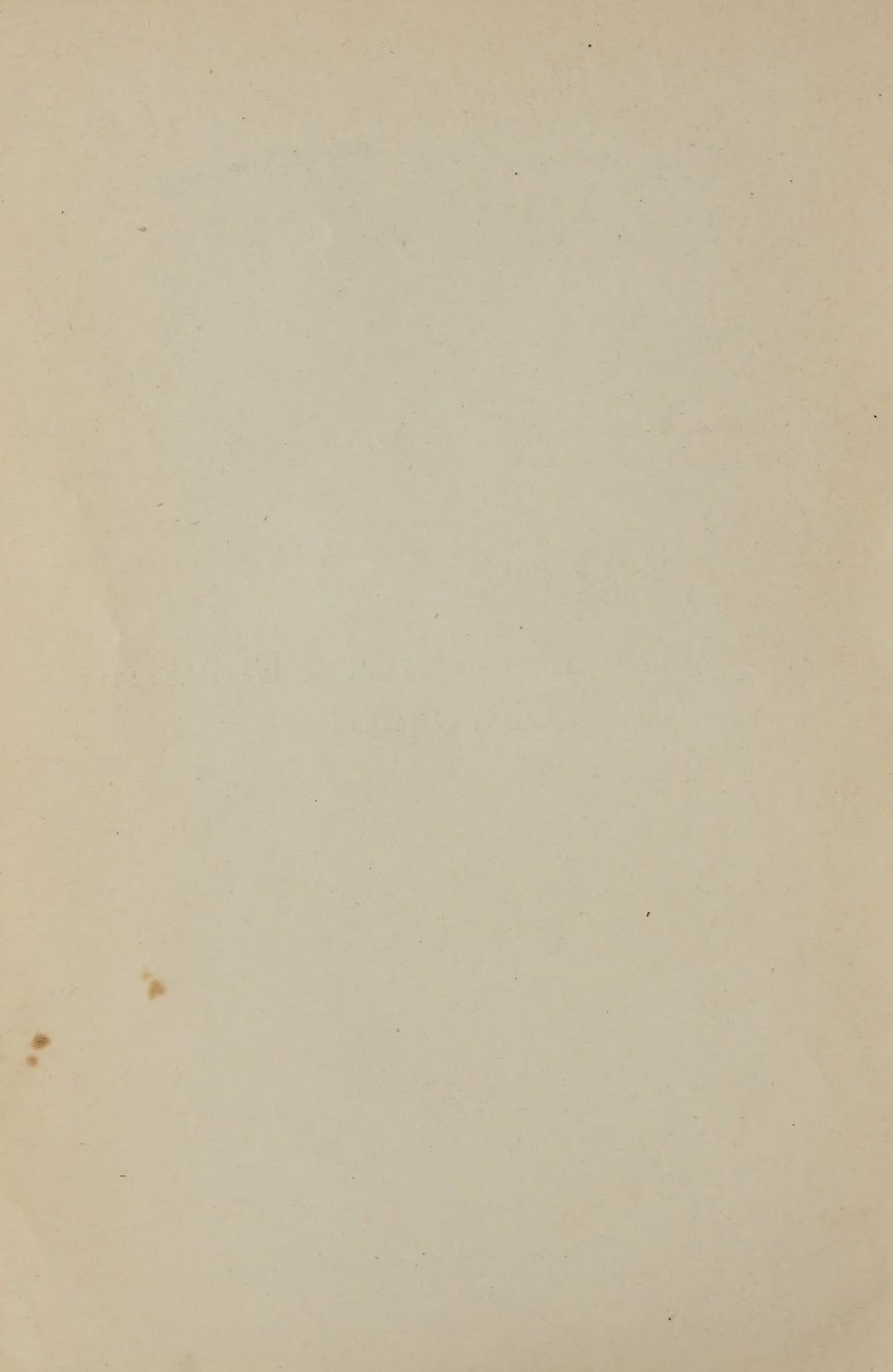
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PREFACE.

This bulletin has been compiled by Mr. Charles W. Bradrick of the Legislative Reference Department, who has accomplished the difficult task in a most complete and satisfactory manner. Its purpose is to meet an ever-growing demand for a publication setting forth the rights, privileges, duties and disabilities of women under the constitution and the statutes of Michigan, particularly wherein they differ from those enjoyed by or imposed upon men. Although it purports to include only the laws relating to women, in some cases (as, for example, the chapter on Descent and Distribution), for the sake of completeness and usefulness, the provisions of the statutes are given in full.

Most of the sections herein contained are taken verbatim or in substance from the statutes. In some instances, where the statutes are silent or where the law is stated in more general terms, it has been deemed advisable to incorporate extracts from the reports of cases decided by the Supreme Court of this State. The purpose and the nature of this bulletin preclude greater amplitude or a more detailed statement of the law.

The following is a list of abbreviations used:

C. L. Compiled Laws of Michigan, 1897.

How. Howell's Annotated Statutes of Michigan, 2nd Edition, 1913.

P. A. Public Acts of Michigan, followed by the number of the act and the year of enactment.

Const. Constitution of Michigan, 1909.

MARY C. SPENCER,
State Librarian.

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LAWS OF MICHIGAN RELATING TO WOMEN.

CHAPTER I.

CITIZENSHIP AND NATURALIZATION.

CITIZENSHIP AND NATURALIZATION OF UNMARRIED WOMEN.

1. The general laws and regulations of the United States, relative to citizenship and naturalization, apply to unmarried women. Naturalization papers may be legally filed by any unmarried woman who is otherwise qualified, or the widow of a foreign-born person not naturalized, but not by a woman during the existence of the marital relation (except as provided in Section 5, *infra*). (Naturalization Regulations, Dept. of Labor, 24 (e), August 20, 1913.)

CITIZENSHIP OF MARRIED WOMEN.

2. A woman upon marriage takes the nationality of her husband, and any woman who is now or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen. (U. S. Rev. Stat., Sec. 1994.)

CITIZENSHIP OF AMERICAN WOMEN MARRYING FOREIGNERS.

3. Any American woman who marries a foreigner shall take the nationality of her husband. At the termination of the marital relation, she may resume her American citizenship, if abroad, by registering as an American citizen within one year with a consul of the United States, or by returning to reside in the United States, or, if residing in the United States at the termination of the marital relation, by continuing to reside therein. (34 U. S. Stat. 1228.)

CITIZENSHIP OF FOREIGN WOMEN MARRYING CITIZENS.

4. Any foreign woman who acquires American citizenship by marriage to an American shall be assumed to retain the same after the termination of the marital relation, if she continue to reside in the United States, unless she makes formal renunciation thereof before a court having jurisdiction to naturalize aliens; or, if she resides abroad, she may retain her citizenship by registering as such before a United States consul within one year after the termination of such marital relation. (34 U. S. Stat. 1228.)

NATURALIZATION OF WIFE AND MINOR CHILDREN OF ALIEN BECOMING INSANE
AFTER DECLARATION OF INTENTION BEFORE BEING ACTUALLY NATURAL-
IZED ONLY WHEN WIFE MAKES HOMESTEAD ENTRY.

5. When any alien, who has declared his intention to become a citizen of the United States, becomes insane before he is actually naturalized, and his wife shall thereafter make a homestead entry under the land laws of the United States, she and their minor children may, by complying with the other provisions of the naturalization laws, be naturalized without any declaration of intention. (36 U. S. Stat. 929.)

NATURALIZATION OF WIDOW AND MINOR CHILDREN OF ALIEN DYING AFTER
DECLARATION OF INTENTION BEFORE BEING ACTUALLY NATURALIZED.

6. When any alien who has declared his intention to become a citizen of the United States dies before he is actually naturalized, the widow and minor children of such alien may, by complying with the other provisions of the naturalization laws, be naturalized without making any declaration of intention. (34 U. S. Stat. 598.)

CHAPTER II.

SUFFRAGE.

SUFFRAGE AT GENERAL ELECTIONS.

7. Complete suffrage at general elections can be granted to women only by an amendment to the Constitution. The constitution grants the right to vote "in all elections" to "every *male* inhabitant of this state, being a citizen of the United States," etc. The legislature cannot enlarge classes who may vote at city and village elections to include women. (Const. Art. III, Sec. 1; Coffin v. Election Com'rs, 97 Mich. 188.)

However, school elections are not included in the meaning of the term "all elections" under the foregoing section of the Constitution. (Burton v. Koch, 184 Mich. 250.)

WOMEN HAVING PROPERTY ASSESSED FOR TAXES MAY VOTE ON PROPOSITIONS
SUBMITTED INVOLVING DIRECT EXPENDITURE OF PUBLIC
MONEY OR THE ISSUE OF BONDS.

8. Whenever any question is submitted to a vote of the electors which involves the direct expenditure of public money or the issue of bonds, every woman having the qualifications of male electors (i. e., citizen of the United States, twenty-one years of age, and a resident of the state for six months, and in the township or ward twenty days, next preceding such election) who has property assessed for taxes in any part of the district or territory to be affected by the result of such election, shall be entitled to vote thereon. (Const. Art. III, Sec. 4; How. 335; Sec. 1, P. A. 206, 1909.)

WOMEN TAXPAYERS MAY VOTE ON PROPOSITIONS FOR ACQUISITION BY CITY
OR VILLAGE OF PUBLIC UTILITY OR GRANT OF PUBLIC
UTILITY FRANCHISE NOT REVOCABLE.

9. No city or village shall have the power to abridge the right of elective franchise. . . . Nor shall any city or village acquire any public utility or grant any public franchise which is not subject to revocation at the will of the city or village, unless such proposition shall have first received the affirmative vote of three-fifths of the electors of such city or village voting thereon at a regular or special municipal election; and upon such proposition, women taxpayers having the qualifications of male electors shall be entitled to vote. (Const. Art. VIII, Sec. 25.)

SCHOOL ELECTIONS—WHEN REGISTRATION NECESSARY.

10. In all school elections including school elections held in districts organized and governed in whole or in part by a local act or acts, any provisions in such local act or acts to the contrary notwithstanding, every citizen of the United States of the age of twenty-one years, male or female, who owns property which is assessed for school taxes in the district, or who is the parent or legal guardian of any child of school age included in the school census of said district, and who has resided in said district three months next preceding such election, shall be a qualified voter. On the question of voting school taxes, every citizen of the United States of the age of twenty-one years, male or female, who owns property which is assessed for school taxes in the district, and who has resided in the district as above stated, shall be a qualified voter: *Provided*, That the purchaser of land upon a land contract, who actually pays the taxes upon such land and resides thereon, may vote upon all questions, and where a husband and wife own property jointly, and same is assessed for school taxes in the school district, each may, if otherwise qualified, vote upon all questions, including the question of raising money: *Provided, however*, That this act shall not be applicable in any city having a population of two hundred fifty thousand or over which comprises a single school district, but in such city all male electors who shall possess the qualifications specified in section one, article three of the constitution of this State, and all females who, if they were males, would be qualified electors, shall be qualified voters in all school elections in such city, and on questions of voting school taxes therein; and such electors, male and female, shall be registered in the manner provided by law for the registration of male electors in any such city, and all such female electors shall be registered in a separate register, and in making the returns of such elections a separate return shall be made of the votes cast by women, but the aggregate vote returned shall include the votes of all women electors, it being the intent of this act that the qualifications of electors qualified to vote for school inspectors therein shall be governed by the provisions of law as they existed prior to the passage of Act 146, P. A. 1913. (P. A. 300, 1915; C. L. 4662.) See also sections 12 and 13, *infra*, as to registration of women voters in school primaries and elections.

REGISTRATION—FOR VOTING ON EXPENDITURE OF PUBLIC MONEY OR ISSUE OF BONDS AT OTHER THAN SCHOOL ELECTIONS.

11. It shall be the duty of every board of registration, upon such days as boards of registration are required to be in session, to register the names of all women who will be entitled to vote upon any question involving the direct expenditure of public money or the issue of bonds at any subsequent election. No woman shall be registered unless she makes personal application to the board of registration. It shall be unlawful for said boards of registration to register any woman under authority of this act, unless she possesses the qualifications prescribed for an elector in section one of article three of the constitution and has property assessed for taxes: *Provided*, That any woman who possesses the qualifications of male electors and owns property jointly with her husband or other person, or who owns property on contract, and pays the taxes thereon, shall be entitled to register and shall have the right to vote on all such propositions as are referred to herein: *Provided further*, That in all school elections at which the question of the direct expenditure of public money or the issue of bonds is to be voted upon women shall be permitted to vote without registration in the manner now provided in the general school law.

It shall be the duty of the various village, township and city clerks to procure and furnish to the various boards of registration a separate register in which shall be written the names of all women entitled to registration under authority of this act.

The propositions herein referred to shall be printed upon ballots which shall not contain any other question to be voted upon at such election. All elections at which women vote shall be conducted, and all ballots shall be cast, counted and canvassed, in the manner provided by existing law, except where the contrary is herein expressed. (How. 336-8; P. A. 206, 1909.)

REGISTRATION OF WOMEN FOR SCHOOL PRIMARIES.

12. Women who are entitled to vote at school elections shall be entitled to enroll at the same times and places and in the same manner, as near as may be, in which the male electors are enrolled. The proper election officers shall cause to be prepared and furnished separate enrollment books for the enrollment of such women voters. Such women voters shall be enrolled in such separate books under their full names. Where candidates for school offices are to be nominated at such primary election, separate ballots containing the names of candidates for school offices shall be prepared for the use of the voters, and women who are enrolled in accordance with this act shall have the right to vote for candidates for school offices at such primary election; the results of such primary elections shall be certified by the proper boards of canvassers to the proper officials within ten days after such primary election. The provisions of the general primary law (P. A. 281, 1909) are hereby made applicable, except as the contrary may be herein expressed. (How. 504; P. A. 169, 1911.)

REGISTRATION IN CERTAIN CITY SCHOOL DISTRICTS.

13. City school districts may, by voting favorably thereon, come under an act providing for division of such city school districts into precincts.

in which case no unregistered person may vote unless such person has qualified under oath under the provisions of law regulating elections in cities. (P. A. 275, 1915.)

REGISTRATION OF WOMEN—SUMMARY.

14. The general laws of this state relating to the registration of women voters may be summarized as follows: Registration is not necessary for voting at school elections (Section 10, *supra*), excepting in cities having a population of more than two hundred fifty thousand (Section 10, *supra*) and in city school districts adopting P. A. 275, 1915 (Section 13, *supra*). Registration is necessary for voting on propositions involving the expending of public money or the issue of bonds, except at school elections (Section 11, *supra*); for voting at school elections in cities having a population of more than two hundred fifty thousand (Section 10, *supra*); for voting at school primaries (Section 12, *supra*); and for voting in city school districts adopting P. A. 275, 1915 (Section 13, *supra*).

CHAPTER III.

ELIGIBILITY TO HOLD OFFICE.

WOMEN NOT ELIGIBLE FOR ELECTIVE OFFICE EXCEPT IN SCHOOL DISTRICT.

15. Generally speaking, no person except a duly qualified elector is eligible to any elective office. While a woman may be admitted to practice law (How. 12538; Sec. 52, Chap. 1, P. A. 314, 1915), she cannot hold the office of prosecuting attorney (*Attorney General v. Abbott*, 121 Mich. 540). Women are eligible to election or appointment as officers of school districts by virtue of a favorable construction of Section 1 of Article III of the Constitution and a statute providing that any qualified voter in a school district whose name appears upon the assessment roll and who is the owner in his or her own right of the property so assessed shall be eligible to election or appointment to office in such school district. Where a husband and wife own property jointly, regardless of the name which appears upon the assessment roll, if otherwise qualified, each is eligible to such election or appointment. (How. 9890; Sec. 4, P. A. 83, 1909.)

APPOINTIVE OFFICES.

16. In addition to eligibility for appointment to offices in school districts, statutes provide that women who have attained the age of 21 years may be appointed as notaries public (How. 1275; C. L. 2629), that at least two deputy factory inspectors shall be women (How. 4026; Sec. 18, P. A. 285, 1909), and that women may be appointed as members of the Board of Registration of Nurses (How. 5175; P. A. 319, 1909).

The governor may appoint one or more suitable females who shall, in behalf of the State Board of Corrections and Charities, personally visit and inspect state and county public institutions, and, especially,

investigate the provisions made for women and children. Said women receive no compensation for their time and services, but may secure actual traveling expenses. (How. 15519; C. L. 2259.)

The Industrial Home for Girls is under the supervision of a board of three persons, at least one of whom must, by law, be a woman. (How. 15446; C. L. 2218.)

The law provides that in the following named institutions of this state at least one resident woman physician shall be employed, who, under the direction of the superintendent of such institution, shall render such women or girls as are inmates such medical treatment as shall from time to time be necessary; The Asylum for the Insane at Kalamazoo, The Asylum for the Insane at Traverse City, the Asylum for the Insane at Pontiac, the Asylum for the Insane at Newberry, the Home for the Feeble-Minded and Epileptic at Lapeer, and all institutions of like nature which may be hereafter established: and that in the following institutions a woman physician shall be employed, who shall render to such women and girls as are inmates such medical treatment and services as may from time to time be necessary; the Industrial Home for Girls at Adrian, the School for the Deaf at Flint, the School for the Blind at Lansing, and all institutions of like nature which may be hereafter created. (How. 3887-8; P. A. 185, 1899, as amended by P. A. 85, 1901.)

CHAPTER IV.

MARRIAGE.

AGE OF PARTIES—CONSENT NECESSARY.

17. Every male who shall have attained the full age of eighteen years, and every female who shall have attained the full age of sixteen years, shall be capable in law of contracting marriage, if otherwise competent, but no license for the marriage of a female under the age of eighteen years shall be issued without the written consent of her parent or guardian being filed with the county clerk, unless such female has no parent or guardian living. Marriage, so far as its validity is concerned, is a civil contract, to which the consent of parties is essential. (How. 11423-24-39; C. L. 8588-89, 8604.)

As to age in marriages to protect reputation, see section 25, *infra*.

PROHIBITED DEGREES OF RELATIONSHIP.

18. The prohibited degrees of relationship, within which no woman may marry, include her father, grandfather, son, grandson, stepfather, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, and her brother, brother's son, sister's son, father's brother, mother's brother, or cousin of the first degree. Marriages are prohibited within the degrees named, whether the parties are legitimate or illegitimate, or of the whole or the half blood. (How. 11426; C. L. 8591; *People v. Jenness*, 5 Mich. 318.)

LEGAL IMPEDIMENT—SPOUSE LIVING.

19. No marriage shall be contracted whilst either of the parties has a former wife or husband living, unless the marriage with such former wife or husband shall have been dissolved. (How. 11427; C. L. 8592.)

PHYSICAL AND MENTAL COMPETENCY OF PARTIES.

20. No person shall be capable of contracting marriage who has been afflicted with insanity, epilepsy, feeble-mindedness, imbecility, idiocy or loathsome venereal disease and has not been cured of the same. No license for the marriage of a party who has been confined in any public institution or asylum as an epileptic, feeble-minded, imbecile or insane patient shall be issued unless the application therefor is accompanied by a verified certificate from two regularly licensed physicians that such person has been completely cured of such affliction and that there is no probability that such person will transmit any of such defects or disabilities to the issue of such marriage. Violation of these provisions is constituted a felony and punishable as such, and in prosecutions under this act a husband shall be examined as a witness against his wife, and a wife shall be examined as a witness against her husband, whether such husband or wife consent or not. Marriage between white persons and those wholly or in part of African descent is permitted. (How. 11428; P. A. 136, 1905.)

MARRIAGE LICENSE.

21. It shall be necessary for all parties intending to be married to obtain a marriage license from the county clerk of the county in which either the man or woman resides, and to deliver the said license to the clergyman or magistrate who is to officiate, before the marriage can be performed. If both parties to be married are non-residents of the state, it shall be necessary to obtain such license from the county clerk of the county in which the marriage is to be performed. Such license shall state the full name, age, color, place of residence, place of birth, occupation, and, if known, the father's name and mother's maiden name of each of the parties to be married; the number of times either of the parties may have been previously married; the bride's maiden name, in case she is a widow; and the affidavit of the applicant as to the competency of the parties to unite in the bonds of matrimony. (For females under age of eighteen, see sec. 17, supra.) The marriage license and returns are public records; they are open to inspection for any lawful purpose and the county clerk may not withhold them. (How. 11437-8; C. L. 8602-3; Kalamazoo Gazette Co. v. County Clerk, 148 Mich. 460.)

SOLEMNIZATION OF MARRIAGE.

22. In the solemnization of marriage, no particular form shall be required, except that the parties shall solemnly declare, in the presence of the magistrate or clergyman and the attending witnesses, that they take each other as husband and wife, and in every case there shall be at least two witnesses, besides the clergyman or magistrate present at the ceremony. Marriages may be solemnized by any justice of the peace, judge of probate or judge of a municipal court, in their respective juris-

dictions, and by any regularly ordained or authorized minister of the gospel. If any person shall undertake to join others in marriage, knowing that he is not lawfully authorized so to do, or knowing of any legal impediment to the proposed marriage, he shall be deemed guilty of a misdemeanor. Whatever is in the way of a valid marriage is such an impediment as the statute has in view and applies to a marriage where the girl is under the age of consent. Provisions relative to the manner of solemnizing marriage shall not affect marriages among the people called Friends or Quakers; nor marriage among people of any particular denomination having, as such, any peculiar mode of solemnizing marriages. (How. 11429-31-33-35; C. L. 8594-96-98-8600; Bouker v. People, 37 Mich. 4.)

MARRIAGES SOLEMNIZED IN OTHER STATES AND COUNTRIES.

23. As to marriages solemnized in other states and countries, a formal ceremony of marriage, whether in due form or not, must be assumed to be by consent, and therefore prima facie a contract of marriage *per verba de praesenti*; and when the local law is not shown, the argument in its favor is, that marriage between parties capable of contracting it is of common right, and valid by a common law prevailing throughout Christendom. Prima facie, a good marriage is shown when the contract is proved with cohabitation following it, and it cannot be assumed that there are regulations restrictive of the common right until they are shown. When the parties take such steps abroad to constitute a marriage as would be sufficient under our laws, afterwards remove to this state, and continue to live together here as husband and wife, recognizing the validity and binding obligation of that relation, they will be deemed to be legally married. A duly authorized certificate of marriage celebrated in a foreign country may be received in evidence here. (Hutchins v. Kimmell, 31 Mich. 126.)

COMMON LAW MARRIAGE.

24. A marriage ceremony is not essential to establish the relation of husband and wife. It is sufficient if a man and a woman, of due competency and without impediment, consent to take each other as husband and wife and cohabit as such. Whatever the form of ceremony, or even if all ceremony be dispensed with, if the parties agree presently to take each other for husband and wife, and from that time live together professedly in that relation, this will be sufficient to constitute a marriage binding upon the parties, and will subject them and others to legal penalties for a disregard of its obligations. But an agreement to live together as man and wife, each party retaining the right to control and dispose of his or her property without question by the other, although followed by cohabitation, was held not to constitute marriage. (Peet v. Peet, 52 Mich. 467; Hutchins v. Kimmell, 31 Mich. 130; Clancy v. Clancy, 66 Mich. 202.)

MARRIAGE TO PROTECT REPUTATION—LICENSE FOR, AND SOLEMNIZATION OF.

25. The judge of probate of each county in the state shall have authority, and it shall be his duty to issue, without publicity, a marriage license to any female making application to him, under oath, contain-

ing a statement that she is with child, which if born alive before her marriage will become a bastard, or has lived with a man and has been considered as his wife, or for other good reason, expressed in such application and deemed to be sufficient by the judge of probate, desires to keep the exact date of the marriage a secret in order to protect the good name of herself and the reputation of her family. Such judge of probate shall have authority to marry persons under marriageable age, where the female is with child, or where she has been living with some man as his wife, in cases in which the application for such license is accompanied by the written request of the parents of both parties, if living, and their guardian or guardians if either or both of the parents are dead, or by the written request of the parent or guardian, as the case may be, of the one under marriageable age now fixed by the statute, when, according to his own judgment, such marriage would be a benefit to public morals. (How. 11448; P. A. 232, 1899.)

SAME; WHEN AND WHERE JUDGE TO FILE PAPERS—WHEN RECORD
OPEN TO INSPECTION.

26. The judge of probate shall file a complete set of all papers in each case in a private file, and shall within ten days after the marriage forward the duplicate thereof to the secretary of state, who shall file such duplicate in a private file and record the same in a private register. Such file in the probate court, and the duplicate and record thereof in the office of the secretary of state, shall be open to inspection only upon the written order of the judge of any circuit or the supreme court of this state, and only for such use as is designated in such order. Such order shall be made only upon the written request of the person or persons who were so married, or when necessary to the protection of property rights arising from or affected by such marriage. (P. A. 232, 1899; How. 11450.)

SAME; PRIVILEGED COMMUNICATION—PENALTY FOR DISCLOSURE.

27. All knowledge of any facts which shall come to the judge of probate or the secretary of state, or their deputies or assistants, the physicians indorsing the application, or the witnesses to said marriage under the license issued pursuant to the provisions of this act, shall be deemed to be privileged communications. Any violation of confidence by the judge of probate, secretary of state, their deputies or assistants, the physician aforesaid, or the witnesses aforesaid, shall upon conviction thereof be deemed to be a misdemeanor. Any editor, publisher or proprietor of any newspaper or publication within this state giving publicity to any license or marriage held under the provisions of this act shall upon conviction be deemed guilty of a misdemeanor, and in addition thereto such editor, publisher or proprietor shall be liable in an action of libel to the parties married under such license. (How. 11451; C. L. 8615.)

CHAPTER V.

DIVORCE.

CAUSES FOR DIVORCE FROM BONDS OF MATRIMONY.

28. A divorce from the bonds of matrimony may be decreed by the circuit court of the county where the parties, or one of them, reside on the application of the aggrieved party in any of the following cases;

A. Whenever adultery has been committed by any husband or wife;
B. When one of the parties was physically incompetent at the time of marriage;

C. When one of the parties has been sentenced to imprisonment in any prison for three years or more;

D. When either party shall desert the other for a term of two years;

E. When the husband or wife shall have become an habitual drunkard;

F. In the discretion of the court, to a resident of this state, when other party to the marriage has obtained a divorce in any other state. (How. 11458; C. L. 8621.)

CAUSES FOR DIVORCE FROM BED AND BOARD.

29. A divorce from bed and board forever, or for a limited time, may be decreed on the ground of extreme cruelty, whether practiced by using personal violence, or by any other means; or for utter desertion by either of the parties for the term of two years; and a like divorce may be decreed on the complaint of the wife when the husband, being of sufficient ability to provide a suitable maintenance for her, shall grossly or wantonly and cruelly refuse or neglect so to do. (How. 11459; C. L. 8622.)

WHEN ABSOLUTE DIVORCE MAY BE GRANTED FOR CAUSES IN PRECEDING SECTION.

30. A divorce from the bonds of matrimony may be decreed for any of the causes mentioned in the preceding section whenever, in the opinion of the court, the circumstances of the case shall be such that it will be discreet and proper so to do. A divorce from the bonds of matrimony may be granted even though the bill prays for a separation only. (How. 11460; P. A. 324. 1907; Sullivan v. Sullivan, 112 Mich. 674.)

MARRIAGES VOID WITHOUT DIVORCE.

31. Marriages are void without decree in the following cases:

A. All marriages which are prohibited by law on account of consanguinity or affinity between the parties, or on account of either of them having a former wife or husband then living and not divorced, and all marriages solemnized when either of the parties was insane, or an idiot, shall, if solemnized within this state, be absolutely void without any decree of divorce or other process: *Provided*, That the issue of such marriage, except that contracted while either of the parties thereto had a husband or wife living, shall be deemed legitimate.

B. In case of a marriage solemnized when either of the parties was

under the age of legal consent, if they shall separate during such non-age and not cohabit together afterwards, or in case the consent of one of the parties was obtained by fraud or force, and there shall have been no subsequent voluntary cohabitation of the parties, the marriage shall be deemed void without any decree of divorce or other legal process.

C. When either party shall be sentenced to imprisonment for life in any prison, the marriage shall be thereby absolutely dissolved without any decree of divorce or other legal process, and no pardon granted to the party so sentenced shall restore such party to his or her conjugal rights. (How. 11453-4-7; C. L. 8616-7-8620.)

WHEN SUIT MAY BE BROUGHT TO ANNUL OR AFFIRM MARRIAGE.

32. When a marriage is supposed to be void, or the validity thereof is doubted, suit may be brought to annul such void marriage, and when the validity of any marriage shall be denied or doubted by either of the parties, the other party may file a petition for affirming the marriage. (How. 11455-6; C. L. 8618-9.)

RESIDENCE OF PARTIES—JURISDICTION.

33. No decree of divorce shall be granted unless the party applying therefor shall have resided in this state for one year immediately preceding the time of filing the bill or petition therefor; or the marriage which it is sought to dissolve was solemnized in this state and the party applying for such divorce shall have resided in this state from the time of such marriage until the time of bringing such suit for divorce.

No decree of divorce shall be granted in any case unless the defendant is domiciled in this state at the time the bill or petition is filed; or the defendant shall have been domiciled in this state when the cause for divorce alleged in the bill or petition arose; or the defendant shall have been brought in by publication, or shall have been personally served with process in this state, or shall have been personally served with a copy of the order for appearance and publication within this state or elsewhere; or has voluntarily appeared in such action or proceeding.

Whenever the cause or causes for divorce shall have occurred out of this state, no decree of divorce shall be granted unless the complainant or defendant shall have resided in this state for two years immediately preceding the filing of the bill or petition for such divorce. (How. 11461; P. A. 210, 1899.)

COLLUSION—SAME OFFENSE BY COMPLAINANT.

34. No divorce shall be decreed in any case when it shall appear that the petition or bill therefor was founded in or exhibited by collusion between the parties, nor where the party complaining shall be guilty of the same crime or misconduct charged against the respondent. (How. 11462; C. L. 8625.)

PHYSICAL INCAPACITY—SUIT TO BE BROUGHT WITHIN TWO YEARS.

35. A suit for divorce on the ground of physical incapacity shall only be maintained by the injured party, against the party whose incapacity is alleged; and shall, in all cases, be brought within two years from the solemnization of the marriage. (How. 11488; C. L. 8651.)

CARE AND CUSTODY OF MINOR CHILDREN.

36. Upon decreeing a divorce, the court may make such further decree as it shall deem just and proper, concerning the care, custody and maintenance of the minor children of the parties, and may determine with which of the parents the children, or any of them, shall remain. The court may, from time to time afterwards, revise and alter such decree concerning the care, custody and maintenance of the children, or any of them, and make a new decree concerning the same, as the circumstances of the parents, or the benefit of the children, shall require. During the pendency of a suit for divorce, the court may make such order concerning the care, custody and maintenance of the minor children as it shall deem proper and necessary. Presumptively, the mother is the proper custodian of children under twelve years of age, and the father of those twelve years of age or over, but the court in each case will be guided by the interests of such children. It has been held that the mother is the proper custodian of children under fourteen years of age, in the absence of any showing of unfitness; and that it is the father's legal duty to provide for their support, although the children may remain with the mother. (How. 11467-8-9, 11537; C. L. 8630-1-2, 8689; Hazelton v. Hazelton, 162 Mich. 192; Courtright v. Courtright, 40 Mich. 633.)

ALIMONY UPON DECREE FOR DIVORCE.

37. Upon every divorce from the bonds of matrimony for any cause except that of adultery committed by the wife, and also upon every divorce from bed and board for any cause, if the estate and effects awarded to the wife shall be insufficient for the suitable support and maintenance of herself and such children of the marriage as shall be committed to her care and custody, the court may decree to her such part of the personal estate of the husband and such alimony out of his estate, real and personal, as it shall deem just and reasonable. (How. 11475; C. L. 8638.)

WHEN COURT MAY MODIFY DECREE FOR ALIMONY OR ALLOWANCE.

38. After a decree for alimony or other allowance has been made, the court may, from time to time, on the petition of either of the parties, revise and alter such decree respecting the amount of such alimony or allowance and the payment thereof. This provision authorizes the court to change a decree for alimony only on new facts thereafter transpiring, and when they are of such a character as to make it necessary to suit the new state of facts. (How. 11478; C. L. 8641; Perkins v. Perkins, 12 Mich. 456.)

DECREE FOR SUPPORT AND MAINTENANCE WHEN DIVORCE FROM BED AND BOARD NOT GRANTED—DECREE FOR ALIMONY WITHOUT DIVORCE.

39. In case of an application for divorce from bed and board, although a decree for such divorce be not made, the court may make such order or decree for the support and maintenance of the wife and children, or any of them, by the husband, as the nature of the case may render suitable and proper. (How. 11491; C. L. 8654.) In case of wife desertion, the husband being of sufficient ability to support her, or in case the husband shall have become an habitual drunkard since their

marriage, or shall have committed any offense that entitles the wife to a decree of divorce, the court may decree to her as alimony such part of her husband's real and personal estate, or such proportion of his earnings, income or revenue, as it may determine to be just and reasonable for her separate maintenance. (How. 11534; C. L. 8686.)

COURT MAY PUNISH DISOBEDIENCE OF DECREE OR ORDER FOR PAYMENT OF
ALIMONY BY FINE AND IMPRISONMENT.

40. Upon failure to pay any alimony, or any stipulated payment of alimony, when petitioned by the injured party, the court may issue an attachment to arrest the party in default and may bring him immediately before the court. The court may punish the defaulting party by fine and imprisonment, the defaulting party to remain under arrest until he files a bond for the payment of alimony, with two sufficient sureties, or until discharged from arrest after a full hearing by the court. (P. A. 379, 1913.)

PAYMENT BY HUSBAND OF SUMS NECESSARY FOR WIFE TO PROSECUTE SUIT,
OR FOR TEMPORARY ALIMONY.

41. In every suit brought either for a divorce or for a separation, the court may, in its discretion, require the husband to pay any sums necessary to enable the wife to carry on or defend the suit during its pendency. This section makes no mention of temporary alimony, but so far as the statute goes, it is only confirmatory of the common law which was acted on by our courts before there was any statute on the subject. The right to grant temporary alimony has always been recognized in divorce suits when the circumstances required it. (How. 11465; C. L. 8628; *Goldsmith v. Goldsmith*, 6 Mich. 285; *Haines v. Haines*, 35 Mich. 143.)

DECREE FOR ALIMONY RENDERED IN OTHER STATE—RECOVERED
BY SUIT IN THIS STATE.

42. In cases where a decree for alimony has been rendered in another state, the alimony decreed may be recovered in an action at law in this state. (How. 11500; P. A. 52, 1911.)

POWER AND OTHER PROPERTY SETTLEMENTS TO BE INCLUDED IN DECREE.

43. When any decree of divorce is granted, it shall be the duty of the court granting such decree to include in it a provision in lieu of the dower of the wife in the property of the husband, and such provision shall be in full satisfaction of all claims that the wife may have in any property which the husband owns or may thereafter own, or in which he may have any interest. Every husband and wife owning real estate as joint tenants or as tenants by entireties shall, upon being divorced, become tenants in common of such real estate, unless the ownership thereof is otherwise determined by the decree of the divorce. (How. 11496-7; P. A. 259, 1909.)

REVOCATION OF DECREE OF DIVORCE FROM BED AND BOARD UPON RECONCILIATION.

44. When a decree of divorce from bed and board shall have been pronounced, it may be revoked at any time thereafter, under such regulations and restrictions as the court may impose, upon the joint application of the parties and their producing satisfactory evidence of their reconciliation. (How. 11492; C. L. 8655.)

PROVISION IN DECREE PROHIBITING REMARRIAGE WITHIN SPECIFIED TIME.

45. The court granting a decree of divorce may provide in such decree that the party against whom any divorce is granted shall not marry again within such time, not exceeding two years, as shall be fixed by the court, and a person marrying within such time will be guilty of bigamy. (How. 11495; C. L. 8658.)

WHEN RESTORATION OR CHANGE OF NAME MAY BE DECREED.

46. Whenever a decree of divorce is granted, the court may restore to the wife her maiden name, or the name she legally bore prior to her marriage, or allow her to adopt another name, provided there is no minor child or children, issue of the marriage. (How. 11503; P. A. 299, 1905.)

RESTRAINT BY HUSBAND OF PERSONAL LIBERTY OF WIFE MAY BE PROHIBITED.

47. After the exhibiting of a petition or bill in a suit to annul a marriage or for a divorce the court may at any time, on the petition of the wife, prohibit the husband from imposing any restraint on her personal liberty during the pendency of the suit. (How. 11466; C. L. 8629.)

PARDON TO PARTY SENTENCED TO PRISON FOR THREE YEARS OR MORE DOES NOT RESTORE CONJUGAL RIGHTS.

48. When a divorce has been granted where one of the parties has been sentenced to imprisonment in any prison, jail or house of correction for three years or more, no pardon granted to the party so sentenced shall restore such party to his or her conjugal rights. (How. 11458; C. L. 8621.)

CHAPTER VI.

RIGHTS AND LIABILITIES OF MARRIED WOMEN UNDER THE
MARRIED WOMAN'S ACT AND OTHER SIMILAR
STATUTES MODIFYING THE COMMON LAW.

MARRIED WOMAN'S ACT.

49. Sections 50 to 54, *infra*, constitute the so-called "Married Woman's Act." It should be noted that this act affects a married woman's rights and obligations only in the acquisition, control and disposition of, or her contracts concerning, her sole and separate property; her right to sue or liability to be sued concerning her sole

and separate property or her contracts concerning same; her right to sue to protect certain rights which she has in her husband's property, or to sue or be sued alone when a cause of action, in contract or in tort, arises against her. Only in cases coming within the provisions of section 55, *infra*, is a married woman possessed of the same rights and liabilities in transacting business as those possessed by an adult, unmarried man. Except as her disabilities have been removed by the Constitution and the statutes, her common law limitations remain. The most important of those limitations, as at present modified and almost removed by the Constitution and the statutes, are explained in sections 55 to 79, *infra*.

RIGHT OF MARRIED WOMAN TO CONVEY, OR TO CONTRACT WITH REFERENCE
TO HER SEPARATE PROPERTY.

50. The real and personal estate of every female, acquired before marriage, and all property, real and personal, to which she may afterwards become entitled, by gift, grant, inheritance, devise, or in any other manner, remains the estate and property of such female, and is not liable for the debts, obligations and engagements of her husband, and may be contracted, sold, transferred, mortgaged, conveyed, devised or bequeathed by her, in the same manner and with the like effect as if she were unmarried. (Art. XVI, Sec. 8, Const. 1909; How. 11545; C. L. 8690.)

TRUSTEE OF PROPERTY FOR MARRIED WOMAN MAY CONVEY TO HER AS HER SOLE
PROPERTY.

51. Any person who holds, as trustee for any married woman, any real or personal estate or other property, under any deed of conveyance, or otherwise, may convey to such married woman, by deed or otherwise, all or any portion of such property, or the rents, issues and profits thereof, for her sole and separate use and benefit. (How. 11546; C. L. 8691.)

MARRIED WOMAN'S RIGHT TO SUE OR BE SUED—PROPERTY OR CONTRACT
RIGHTS.

52. Actions may be brought by and against a married woman in relation to her sole property, in the same manner as if she were unmarried, and in cases where the property of the husband cannot be sold, mortgaged or otherwise encumbered, without the consent of his wife to be given in the manner prescribed by law, or when his property is exempted by law from sale on execution or other final process issued from any court against him, his wife may bring an action in her own name, with the like effect as in cases of actions in relation to her sole property. (How. 11547; Sec. 5, Chap. 12, P. A. 314, 1915.)

The husband of any married woman is not liable to be sued upon any contract made by such married woman in relation to her sole property, and the wife is liable to be sued upon any contract or engagement made by her in cases where her husband is not in law liable, or where he refuses to perform such contract or engagement. (How. 11548; C. L. 8693.)

Whenever a cause of action shall accrue to or arise against any married woman, she may sue or be sued in the same manner as if she were sole. (Sec. 6, Chap. 12, P. A. 314, 1915.)

See sections 69 and 70, *infra*.

SUITS FOR WIFE'S TORTS TO BE BROUGHT AGAINST THE WIFE ALONE.

53. No suit shall be brought against husband and wife, jointly, or against the husband alone, for any tort of the wife unless such tort was committed under such circumstances as to render them both liable. (Sec. 7, Chap. 12, P. A. 314, 1915.) See section 65, *infra*.

CONTRACTS MADE IN CONTEMPLATION OF MARRIAGE.

54. All contracts made between persons in contemplation of marriage remain in full force after marriage takes place. (How. 11549; C. L. 8694.)

WHEN MARRIED WOMAN MAY CONTRACT WITH NO DISABILITY.

55. Any married woman coming into this state from any other state or country, without her husband, he having never lived with her in this state, may transact business, make contracts, and commence, prosecute and defend suits in her own name, and dispose of her property in like manner, in all respects, as if she were unmarried. (How. 11523; C. L. 8678.)

EXTENT OF MARRIED WOMAN'S POWER TO CONTRACT.

56. So far as their property rights and interests are concerned, husband and wife no longer constitute a single person in law (Fisher v. Provin, 25 Mich. 350), and the husband has no control over his wife's property (Agricultural Ins. Co. v. Montague, 38 Mich. 548). However, the wife may contract and bind herself only in relation to her property and estate already possessed, or referring to it, or else concerning property acquired by the contract or in consideration of it. There must be a *direct* relation between the contract and her property. (Reed v. Buys, 44 Mich. 82; Detroit Chamber of Commerce v. Goodman, 110 Mich. 498.) Therefore, a wife's promise to pay for medical services rendered to her husband or for board of her husband is not binding upon her, not being a contract relating to or benefitting her separate estate. (Howe v. North, 69 Mich. 272; Buck v. Haynes Estate, 75 Mich. 397.)

CONTRACTS BETWEEN HUSBAND AND WIFE.

57. Where no considerations of public policy preclude it, husband and wife may contract with each other in relation to the wife's property now possessed or to be acquired by such contract. (Randall v. Randall, 37 Mich. 563.) Husband or wife may convey his or her separate property directly to the other. (Ransom v. Ransom, 30 Mich. 328.) A deed from husband to wife of land held by entireties is valid. (Demerse et al. v. Mitchel et al. — Mich. — 1915, 154 N. W. 22.) An agreement by the husband to pay the wife a specified sum for her services as housekeeper is void, being contrary to public policy. (Michigan Trust Co. v. Chapin, 106

Mich. 384.) Husband and wife cannot sue each other to enforce a mere executory contract. (*Jenne v. Marble*, 37 Mich. 319.)

MARRIED WOMAN'S CONTRACTS AND CONVEYANCES AFFECTING HER INTEREST
IN REAL PROPERTY.

58. Under the Married Woman's Act, a married woman may convey her separate real property as though she were sole. When a wife joins with her husband in his deed or mortgage of his lands, in the usual manner prescribed by law for barring dower and releasing homestead rights, her joining in such deed or mortgage will not affect any separate or independent interest, or estate, or any prior mortgage of her own, in and upon the land, unless the intention so to do is expressed in a special provision inserted in the deed or mortgage for that purpose. (*Kitchell v. Midgett*, 37 Mich. 91.) A wife joining her husband in a deed to his land is not bound by the covenants therein (*Carley v. Fox*, 38 Mich. 387), nor is a wife liable for the husband's debt secured by his mortgage in which she joins merely for the purpose of releasing her dower (*Gantz v. Toles*, 40 Mich. 728); but where a wife joins in a warranty deed, the sole consideration being the conveyance to her of other land, she is jointly liable for a breach of the covenants therein contained to the extent of her interest in the land conveyed (*Heinmiller v. Hathaway*, 60 Mich. 391).

A wife may by her sole deed and during the life of her husband convey or release her rights to dower in his lands (*Rhoades v. Davis*, 51 Mich. 306), or mortgage her separate estate to secure a debt of her husband (*Marx v. Bellel*, 114 Mich. 631), or convey it in payment of her husband's debt (*Kieldsen v. Blodgett*, 113 Mich. 655); but she cannot contract in relation to or encumber her interest in land conveyed to herself and husband and held by entireties, her interest in an estate held by entireties not being her separate property (*Spier v. Opfer*, 73 Mich. 35). A wife cannot transfer a homestead under Art. XIV, Sec. 2, Constitution of 1909, by her deed separately from her husband. (*Lott v. Lott*, 146 Mich. 580.) She can release her homestead interest only by joining with her husband in a deed or mortgage as provided by statutes, her common law disabilities having been removed relative to the conveyance of her separate property but not with reference to her interest in her husband's lands or lands held by entireties. (*Ring v. Burt*, 17 Mich. 472.) Although an estate by entireties is not a portion of the wife's separate estate (*Doane v. Feather's Estate*, 119 Mich. 691), and estates by entireties are said to remain as at common law (*Morrill v. Morrill*, 138 Mich. 112), the prohibition is against either the husband or the wife's alienating to a third person without the consent of the other, and an alienation by both acting jointly, or by one to the other, is permissible (*Demerse et al. v. Michell et al.* — Mich. —, 1915; 154 N. W. 22).

MARRIED WOMAN'S PROMISSORY NOTES.

59. A married woman's note or contract, merely for the purpose of paying or securing her husband's debt, or the debt of any other person—merely for the payment of money—is not binding upon her (*West v. Laraway*, 28 Mich. 464; *Chamberlain v. Murrain*, 92 Mich. 360), except upon sufficient consideration paid to her for so doing (*DeVries v. Conklin*, 22 Mich. 255). To be valid, her note must be based on a consider-

ation in the shape of property—must be made concerning property already possessed, or referring to it, or concerning property acquired by the contract or in consideration of it, or otherwise in relation to her separate estate or business. (*Johnson v. Sutherland*, 39 Mich. 579; *Russell v. Savings Bank*, 39 Mich. 671.) A married woman's note has no greater validity in the hands of a bona fide purchaser than in the hands of the original payee. (*Waterbury v. Andrews*, 67 Mich. 281.) A married woman may endorse a note due to herself, but not the note of a corporation of which she is a stockholder given for the debt of the corporation. (*Johnson v. Sutherland*, 39 Mich. 579.) The liability of a married woman of another state on a note given in that state and good under its laws may be enforced by attachment of her property in Michigan, though it would be ineffective to bind her separate property if given here. (*State Bank of Eldorado v. Maxson*, 123 Mich. 250.)

SURETYSHIP.

60. A married woman cannot bind herself by a contract of suretyship merely, such contract not being within the words or the spirit of the Married Woman's Act (*Insurance Co. v. Wayne County Savings Bank*, 68 Mich. 116), nor can she make herself personally liable for the debt or obligation of another where no consideration passes to her for that purpose (*Buck v. Haynes*, 75 Mich. 397), and she cannot be bound with her husband or any other person as surety by mere personal promises (*Jenne v. Marble*, 37 Mich. 321). However, she may mortgage her lands and property for payment or security of the debt of another, or of her husband, as such transaction relates to her separate estate. (*Damon v. Deeves*, 57 Mich. 247.)

AGENCY.

61. A married woman may act through an agent and will be bound by such agent's acts (*Mack v. Engel*, 165 Mich. 540), but she cannot give her agent any powers which will authorize him to bind her except in relation to her separate estate and business. Persons dealing with her agent must inquire into his powers. (*Kenton Ins. Co. v. McClellan*, 43 Mich. 564.)

PARTNERSHIP.

62. With her husband's consent, a married woman may enter into a partnership with strangers, but she cannot hold partnership relations in business with her husband. (*Ortman v. Ferguson*, 73 Mich. 146.)

WIFE'S EARNINGS.

63. A married woman in the state of Michigan is absolutely entitled to have, hold, own, retain and enjoy any and all earnings acquired by her as the result of her personal efforts; and to sell or otherwise dispose of any and all such earnings, and to make contracts in relation thereto to the same extent as if she were not married. (*How*, 11552; *P. A.* 196, 1911.)

But see section 64-A, *infra*.

WIFE'S SERVICES AND SUPPORT.

64. The husband is legally bound to support the wife and is entitled to her services, except where given to her individual estate or separate business. (*Howe v. North*, 69 Mich. 272; *Root v. Root*, 164 Mich. 638.)

A. SERVICES.

The wife may devote such time and services to the care and management of her separate estate as may be necessary (*Grover v. Alcott*, 11 Mich. 482), and, with the husband's consent, she may carry on a separate trade or business in her own name and on her own account, and be solely and legally liable for her purchases and engagements in the business (*Vail v. Winterstein*, 94 Mich. 230); but where the husband is able and willing to support her, she has no legal right to conduct a business of her own without his consent (*Root v. Root*, 164 Mich. 638).

B. SUPPORT.

The husband is bound to provide the necessaries for the support of the wife, but necessaries may be purchased by the wife on her individual credit and she will be liable though they were used by her husband and family. (*Howe v. North*, 69 Mich. 272.) A husband deserting his family and not supporting them is to be considered as refusing to perform his wife's contracts for necessaries. (*Carstens v. Hanselman*, 61 Mich. 430.) Charging goods to the wife does not estop the creditor to claim they were sold on the husband's credit. (*Leonard v. Stowe*, 166 Mich. 681.)

WIFE'S TORTS.

65. The husband is not liable, as at common law, for his wife's carelessness or negligence unless she was acting under his direction, or with his knowledge and assent (as his agent), and he cannot be sued alone or be joined with her in an action for her tort. (Sec. 7, Chap. 12, P. A. 314, 1915; *Weber v. Weber*, 47 Mich. 571.) See section 53, supra.

WIFE'S DEBTS.

66. The Married Woman's Act abolished the common law rule making the husband liable for the wife's debts contracted before marriage. (*Smith v. Martin*, 124 Mich. 34.)

DOMICILE.

67. The husband has the right to choose the family domicile, and the domicile of the husband is also that of the wife, but a wife may remain with or leave her husband as she pleases and he has no legal remedy to compel her to return. (*Buckingham v. Buckingham*, 81 Mich. 89.)

WILLS—REVOCATION BY CHANGE OF STATUS.

68. The common law rule that marriage and birth of issue revokes a woman's will is not affected by the Married Woman's Act (*Durfee v. Risch*, 142 Mich. 504), and the same is true of divorce and settlement of property rights (*Wirth v. Wirth*, 149 Mich. 687).

WHEN MARRIED WOMAN MAY SUE ALONE.

69. Whenever a cause of action accrues to any married woman, she may sue in the same manner as if she were sole. This provision, added to the Married Woman's Act in 1915, did not change the law but rather incorporated into the written laws a positive provision which had been theretofore inferred from the existing provisions of the Married Woman's Act. If the cause of action accrues to her, i. e., if she is injured in person, property or reputation, she is under no disability to sue because of her status as a married woman. (Sec. 6, Chap. 12, P. A. 314, 1915.)

See section 52, *supra*.

WHEN MARRIED WOMAN MAY BE SUED ALONE.

70. Whenever a cause of action arises against a married woman, whether in tort, in contract, or otherwise, she may be sued alone unless her liability in that particular instance be a joint liability. If she is liable jointly with others, such others must be joined unless the action is founded upon a tort. In all cases affecting land claimed as a homestead by either wife or husband, both should be joined as defendants (Sec. 6, 7, Chap. 12, P. A. 314, 1915; *Hadley v. Tobias*, 85 Mich. 326).

See section 52, *supra*.

IMPEDIMENT TO MARRIAGE NO BAR TO ACTION BY INNOCENT PARTY OR THE
ISSUE OF SUCH MARRIAGE FOR NEGLIGENT INJURY OR
DEATH OF PARENT OR SPOUSE OR CHILD.

71. In any action tried for damages heretofore or hereafter sustained by either party to a marriage relation or the issue thereof, arising from the negligent act or omission of another, causing death or injury, it shall be no bar to such action that legal impediment existed to the lawful marriage of either party at the time the marriage relation was assumed, but a right of action shall exist in favor of such issue and the party to such relation entering the same in good faith, and such issue and party shall be entitled to the same damages as though such impediment had not existed. (How. 11538; P. A. 280, 1905.)

ESTATES BY ENTIRETIES.

72. By conveyance to husband and wife in fee, each is seised of the entirety of real estate, neither may release, convey, or encumber same without the consent and joindre of the other, and the survivor takes the whole in fee. (How. 10666-7, C. L. 8826-7; *Jacobs v. Miller*, 50 Mich. 119.)

RIGHT TO INSURE LIFE OF HUSBAND.

73. Any married woman, by herself, and in her name, or in the name of any third person, with his assent, as her trustee, may cause to be insured for her sole use, the life of her husband or the life of any other person, in any life insurance company located in either of the states of the United States or in Great Britain, for any definite period, or for the term of his natural life; and in case of her surviving her husband, or such other person insured in her behalf, the sum or net amount of the policy

of insurance due and payable by the terms of the insurance is payable to her, to and for her own use, free from the claims of the representatives of her husband, or of such other person insured, or of any of his creditors, but such exemption does not apply where the amount of premium annually paid exceeds the sum of three hundred dollars. In case of the death of the wife before the decease of her husband or of such other person insured, the amount of the insurance may be made payable after her death to her children, for their use, and to their guardian, if under age, or the amount of the policy may be disposed of by such married woman by a last will and testament. (How. 11550-1; C. L. 8695-6.)

MARRIAGE OF FEMALE UNDER TWENTY-ONE TERMINATES GUARDIANSHIP OF THE PERSON BUT NOT OF PROPERTY.

74. The marriage of any female who is under guardianship, as a minor, shall terminate such guardianship as to the guardian's care and custody of the person of his ward; but such guardian shall continue the management of all the estate of his ward until she shall arrive at the age of twenty-one years, unless he shall be sooner discharged by the judge of probate. Such guardian may be discharged by the judge of probate when it shall appear to him that such guardianship is no longer necessary. The probate court has power to appoint guardians of infant married women on proper application therefor. (Sec. 26, Chap. 58, P. A. 314, 1915.)

GUARDIAN OF INSANE OR INCOMPETENT MARRIED WOMAN.

75. The judge of probate in each county may in all proper cases appoint guardians to inhabitants or residents in his county, and also to such as reside without the state and have any estate within his county. He may appoint a guardian of the estate, but not of the person as against the rights of the husband, of any married woman who shall be insane or otherwise mentally incompetent to have the charge of her property. (Sec. 1, Chap. 58, P. A. 314, 1915.)

MARRIED WOMAN'S CONVEYANCE OF LANDS.

76. Land may be conveyed only in accordance with the laws of the state where it is situated (*Stevens v. Earles*, 25 Mich. 43), and everything relating to the mode and validity of the conveyance depends upon those laws (*Palmer v. Mason*, 42 Mich. 153). In Michigan, conveyance of land, or of any estate or interest therein, by a woman, married or single, may be made by deed, signed by the person from whom the estate or interest is intended to pass, being of lawful age, or by her lawful agent or attorney, and acknowledged or proved and recorded. (How. 10818; C. L. 8956.)

See section 50, *supra*.

DEED, HOW EXECUTED AND ACKNOWLEDGED.

77. Deeds must be executed in the presence of two witnesses, who shall subscribe their names to the same as such, and the persons executing such deeds may acknowledge the execution thereof before any judge, clerk, or commissioner of a court of record, or before any notary public,

justice of the peace, or master in chancery, within this state, and the officer taking such acknowledgment shall endorse thereon a certificate of the acknowledgment thereof, and the true date of making the same. The acknowledgment of any married woman to a deed of conveyance or other instrument affecting real property may be taken in the same manner as if she were sole. (How. 10824-8, 10902; P. A. 103, 1905; C. L. 8966, 9021.)

MARRIED WOMAN RESIDING IN OTHER STATE JOINING HUSBAND IN CONVEYANCE
OF LAND SITUATED IN MICHIGAN.

78. When any married woman, not residing in this state, shall join with her husband in any conveyance of real estate situated within this state, the conveyance shall have the same effect as if she were sole, and the acknowledgment or proof of the execution of such conveyance by her, may be the same as if she were sole. (How. 10830; C. L. 8968.)

BUILDING AND LOAN ASSOCIATIONS—MARRIED WOMEN MAY SUBSCRIBE—STOCK
MAY BE ISSUED TO HUSBAND AND WIFE JOINTLY—PAY-
MENTS MAY BE MADE TO EITHER.

79. Married women may become subscribers to the capital stock of building and loan associations, and hold, control and transfer their stock in all respects as femmes sole, and their stock shall not be subject to the control of or liable for the debts of their husbands. The stock issued by any association to a husband and wife jointly shall become the property of such persons as joint tenants, and the same together with all earnings thereon, shall be held for the exclusive use of the persons so named and may be paid to either during the lifetime of both, or to the survivor after the death of one of them, and such payment and the receipt or acquittance of the same to whom such payment is made shall be a valid and sufficient release and discharge to said association for all payments made on account of such stock, prior to the receipt by said association of notice in writing not to pay or deliver such stock in accordance with the terms thereof. (P. A. 273, 1915.)

CHAPTER VII.

DOWER.

NATURE AND QUALITY OF DOWER.

80. The widow of every deceased person shall be entitled to dower, or the use during her natural life of one-third part of all the lands whereof her husband was seised of an estate of inheritance at any time during the marriage, unless she is lawfully barred thereof. (How. 10910; C. L. 8918.)

The right of dower is not an undivided third of the entirety, but of one-third in severalty; nor is it one-third in quantity of the lands of which the husband died seised, but it is the right to the use of such part

as will yield one-third of the entire income of the whole. (*King v. Merritt*, 67 Mich. 194.) A widow may have dower in mineral land royalties (In re *Seager Estate*, 92 Mich. 186); and she may have dower and homestead rights in the same parcel of land, neither being inconsistent with the other (*Showers v. Robinson*, 43 Mich. 502). A widow is not entitled to dower in lands held by her husband under contract (*Stephens v. Leonard*, 122 Mich. 125), or in lands in which her husband held an equitable interest only (*Beebe v. Lyle*, 73 Mich. 114), or in lands held by husband and wife under life lease (*Case v. Green*, 53 Mich. 616).

POSSIBILITY OF DOWER BEFORE HUSBAND'S DEATH.

81. The possibility of dower before the husband's death is a right salable by the wife and is sufficient to supply a legal consideration for a conveyance to her. (*Bissell v. Taylor*, 41 Mich. 702.) It has money value and may be dealt with as property. The wife may convey or release it to her husband by her deed executed directly to him. (*Rhoades v. Davis*, 51 Mich. 306.) A deed by a married man alone of land including his homestead will be void as to the homestead but good as to the residue; and the residue will be subject to dower the same as if it were the only land described in, and attempted to be conveyed by, the deed. (*Wallace v. Harris*, 32 Mich. 401.)

DOWER IN CASE OF EXCHANGE OF LANDS BY HUSBAND.

82. If a husband seised of an estate of inheritance in lands exchange them for other lands, his widow shall not have dower of both, but shall make her election to be endowed of the lands given, or of those taken in exchange; and if such election be not evinced by the commencement of proceedings to recover her dower of the lands given in exchange, within one year after the death of her husband, she shall be deemed to have elected to take her dower of the lands received in exchange. (How. 10911; C. L. 8919.)

DOWER IN LANDS MORTGAGED BEFORE MARRIAGE.

83. When a person seised of an estate of inheritance in lands shall have executed a mortgage of such estate before marriage, his widow shall be entitled to dower out of the lands mortgaged, as against every person except the mortgagee, and those claiming under him. (How. 10912; C. L. 8920.)

DOWER IN LANDS MORTGAGED FOR PURCHASE MONEY.

84. When a husband shall purchase lands during coverture, and shall at the same time mortgage his estate in such lands to secure the payment of the purchase money, his widow shall not be entitled to dower out of such lands, as against the mortgagee, or those claiming under him, although she shall not have united in such mortgage, but she shall be entitled to her dower as against all other persons. (How. 10913; C. L. 9821.)

WHEN WIDOW ENTITLED TO DOWER AFTER SALE ON MORTGAGE.

85. When, in either of the foregoing cases (sections 83 and 84), or when the wife shall have joined with her husband in executing a mortgage, the mortgagee, or those claiming under him, shall, after the death of the husband, cause the mortgaged premises to be sold by virtue of such mortgage, and any surplus shall remain after the payment of the moneys due thereon and the costs and charges of the sale, such widow shall be entitled to the interest or income of one-third of such surplus, for her life, as dower. (How. 10914; C. L. 8922.)

WHEN WIDOW ENTITLED TO DOWER OF RESIDUE AFTER DEDUCTING AMOUNT PAID ON MORTGAGE.

86. If, in either of the cases above specified, the heir, or other person claiming under the husband, shall pay and satisfy the mortgage, the amount so paid shall be deducted from the value of the land, and the widow shall have set out to her, for her dower in the mortgaged lands, the value of one-third of the residue after such deduction. (How. 10915; C. L. 8923.)

DOWER IN LANDS ALIENED IN LIFETIME OF HUSBAND—VALUATION.

87. When a widow shall be entitled to dower out of any lands which shall have been aliened by the husband in his lifetime, and such lands shall have been enhanced in value after the alienation, such lands shall be estimated, in setting out the widow's dower, according to their value at the time when they were so aliened. (How. 10916; C. L. 9824; Greiner v. Klein, 28 Mich. 14.)

ASSIGNMENT OF DOWER BY PROBATE COURT.

88. When a widow is entitled to dower in lands of which her husband died seised, and her right to dower is not disputed by the heirs or devisees, or any person claiming under them, or either of them, it may be assigned to her, in whatever counties the lands may lie, by the judge of probate for the county in which the estate of the husband is settled, upon the application of the widow or any other person interested in the lands; notice of which application shall be given to such heirs, devisees or other persons, in such manner as the judge of probate shall direct. (How. 10917; Sec. 30, Chap. 57, P. A. 314, 1915.)

WHEN DOWER MAY BE ASSIGNED OR RECOVERED IN EJECTMENT.

89. Dower may be assigned at any time, either before or after administration. (White v. Spalding, 50 Mich. 22; King v. Merritt 67 Mich. 194.) The widow may bring ejectment for her dower interest at once, and without assignment; she has a present possessory claim capable of enforcement (Proctor v. Bigelow, 38 Mich. 282; Moddy v. Seaman, 47 Mich. 76); but the widow's assignee cannot recover dower until after dower has been assigned (Galbraith v. Fleming, 60 Mich. 408).

HOW DOWER ASSIGNED—COSTS.

90. For the purpose of assigning such dower, the judge of probate shall issue his warrant to three discreet and disinterested persons, authorizing and requiring them to set off the dower by metes and bounds, when it can be done without injury to the whole estate, but when dower cannot be set off without injury to the whole or where the estate cannot be divided by metes and bounds, the dower may be assigned of the rents, issues and profits thereof, to be had and received by the widow as a tenant in common with the other owners of the estate. One-half the cost of setting off the dower shall be paid by the widow, and the other half by the adverse party. (How. 10918-20; Secs. 31 to 33, Chap. 57, P. A. 314, 1915.)

WHEN WIDOW MAY OCCUPY WITH CHILDREN OR OTHER HEIRS.

91. When a widow is entitled to dower in lands of which her husband died seised, she may continue to occupy the same with the children or other heirs of the deceased, or may receive one-third part of the rents, issues and profits thereof, so long as the heirs or other interested persons do not object, without having the dower assigned; and the widow cannot be charged with rent while so occupying. (How. 10921; C. L. 8929; *In re Graff's estate*, 123 Mich. 456.)

HOW DOWER MAY BE BARRED.

92. Dower may be barred:

A. By deed.

A married woman residing within this state may bar her right of dower in any estate conveyed by her husband or by his guardian, if he be under guardianship, by joining in the deed or conveyance and acknowledging the same or by joining with her husband in a subsequent deed, acknowledged in like manner; or by deed executed by the wife alone to one who has theretofore acquired and then holds the husband's title, provided the intent to bar her right of dower shall be expressed in said deed. (How. 10922; C. L. 8930.)

B. By jointure.

A woman may also be barred of her dower in all the lands of her husband by a jointure settled on her with her assent before the marriage, provided such jointure consists of a freehold estate in lands for the life of the wife at least, to take effect in possession or profit immediately on the death of the husband. Such assent shall be expressed, if the woman be of full age, by her becoming a party to the conveyance by which it is settled, or if she be under age, by her joining with her father or guardian in such conveyance. (How. 10923-4; C. L. 8931-2.)

C. By other pecuniary provision.

Any pecuniary provision that shall be made for the benefit of an intended wife, and in lieu of dower, shall, if assented to, as provided in the preceding section, bar her right of dower in all the lands of her husband. (How. 10925; C. L. 8923.)

WIDOW'S RIGHT TO ELECT TO TAKE HER DOWER INSTEAD OF OTHER PROVISIONS.

93. If any such jointure or pecuniary provision be made before marriage, and without the assent of the intended wife, or if it be made after

marriage, she shall make her election after the death of her husband, whether she shall take such jointure or pecuniary provision, or be endowed of the lands of her husband; but she shall not be entitled to both. If any lands be devised to a woman, or other provisions be made for her, in the will of her husband, she shall make her election whether she will take the lands so devised (or the provision so made), or whether she will be endowed of the lands of her husband; but she shall not be entitled to both unless it plainly appears by the will to have been so intended by the testator. A widow shall be deemed to have elected to take such jointure, devise or other provision unless, within one year after the death of her husband, she shall commence proceedings for the assignment or recovery of her dower. (How. 10926-8; C. L. 8934-6.)

As to election between provision in will and distributive share of personality, see section 132, *infra*.

EFFECT OF ELECTION—WHAT LANDS AFFECTED.

94. Election to take provisions in a will instead of dower affects a widow's right only to lands of which her husband died seised, and election to take under the will does not bar her dower in lands aliened by the husband during marriage by conveyance in which she did not join (*Westbrook v. Vanderburgh*, 38 Mich. 30), but a widow electing to take her dower takes the dower provided by statute and not under the provision made by the statute of descent (*Stearns v. Perrin*, 130 Mich. 456). If a widow elects to take under a will, in lieu of dower, she thereby becomes a creditor of the estate to the amount of such legacy or provision, standing upon the same footing with other creditors and to be paid in the same manner, either in full or pro rata according to the sufficiency of assets. (*Tracy v. Murray*, 44 Mich. 109.)

WHEN DOWER MAY BE ASSIGNED ANEW.

95. If a woman is lawfully evicted of lands assigned to her as dower, or settled upon her as jointure, or is deprived of the provision made for her by will or otherwise, in lieu of dower, she may be endowed anew, in like manner as if such assignment, jointure or other provision, had not been made. (How. 10929; C. L. 8937.)

ALIEN AND NON-RESIDENT WIDOWS.

96. A woman, being an alien, shall not on that account be barred on her dower, and any woman residing out of the state shall be entitled to dower of the lands of her deceased husband, lying in this state, of which her husband died seised, and the same may be assigned to her, or recovered by her, in like manner as if she and her deceased husband had been residents within the state at the time of his death (How. 10930; C. L. 8938).

A *non-resident wife* is not entitled to dower (*Stanton v. Hitchcock*, 64 Mich. 316), but a *non-resident widow* is entitled to dower (*Putney v. Vinton*, 145 Mich. 219); i. e., a widow residing outside this state will be entitled to dower, not in all lands of which her husband was seised during their marriage, but only in those lands of which he was seised at his death.

LIABILITY FOR WASTE.

97. No woman who shall be endowed of any lands shall commit or suffer any waste on the same; but every woman so endowed shall maintain the houses and tenements with the fences and appurtenances in good repair; and shall be liable to the person having the next immediate estate of inheritance therein for all damages occasioned by any waste committed or suffered by her. (How. 10931; C. L. 8939.)

WIDOW'S QUARANTINE.

98. A widow may remain in the dwelling house of her husband one year after his death, without being chargeable with rent therefor, and shall have her reasonable sustenance out of his estate for one year. (How. 10932; C. L. 8940.)

DAMAGES FOR WITHHOLDING DOWER.

99. Whenever, in any action brought for that purpose, a widow shall recover her dower in lands of which her husband shall have died seised, she shall be entitled also to recover one third part of the annual value of the mesne profits of the lands, as damages for the withholding of such dower, to be estimated in a suit against the heirs of her husband, from the time of her demanding her dower of such persons; but such damages shall not be estimated for the use of any permanent improvements made after the death of her husband by his heirs, or by any other person claiming title to such lands. (How. 10933-5; C. L. 8941-3.)

DAMAGES FOR WITHHOLDING DOWER IN LANDS ALIENATED BY HEIR OF HUSBAND.

100. When a widow shall recover her dower in any lands alienated by the heir of her husband, she shall be entitled to recover of such heir, in an action on the case, her damages for withholding such dower, from the time of the death of her husband to the time of the alienation by the heir, not exceeding six years in the whole; and the amount which she shall be entitled to recover from such heir, shall be deducted from the amount she would otherwise be entitled to recover from such grantee, and any amount recovered as damages from such grantee shall be deducted from the sum she would otherwise be entitled to recover from such heir. (How. 10936; C. L. 8944.)

ACCEPTANCE OF DOWER A BAR TO FURTHER CLAIM.

101. When the widow shall have accepted an assignment of dower, in satisfaction of her claim upon all the lands of her husband, it shall be a bar to any further claim of dower against the heir of such husband, or any grantee of such heir, or any grantee of such husband, unless such widow shall have been lawfully evicted of the lands so assigned to her as aforesaid. (How. 10937; C. L. 8945.)

FRAUDULENT OR COLLUSIVE RECOVERY OF DOWER BY WIDOW NOT ENTITLED THERETO.

102. When a widow not having the right to dower shall, during the infancy of the heirs of the husband, or any of them, or of any person entitled to the lands, recover dower by the default or the collusion of

the guardian of such infant heir or other person, such heir or other person so entitled shall not be prejudiced thereby, but when he comes of full age, he shall have an action against such widow to recover the lands so wrongfully awarded for dower. (How. 10938; C. L. 8946.)

HOW INCHOATE DOWER OF INSANE WIFE MAY BE BARRED.

103. Whenever the wife of any person shall have become insane, imbecile or idiotic, or for any cause shall be unable from defective intellect to join her husband in the conveyance of real estate, and shall have remained in that condition for more than two years, or when it shall be made to appear to the court that such married woman is incurably insane, she may be barred of her right of dower in the lands of her husband, in the manner following. (How. 10939; Sec. 71, Chap. 19, P. A. 314, 1915.)

SAME; PETITION—BY WHOM FILED—CONTENTS.

104. The husband, or any person interested in any such real estate, may apply to the circuit court in chancery of the county where such lands or any part of such lands are situated, by petition under oath, for the appointment of a guardian and for leave to sell her inchoate right of dower, which petition shall state the name, age and residence of such married woman and of her husband, as near as can be ascertained; the nature of the disability of said married woman, and the length of time it has existed; a full description of the lands and premises in this state to be affected by such proceedings; the value of each piece of real estate, and the amount of incumbrance upon it (if any), not affected by, or prior to, her claim of dower; if the real estate is to be sold by the husband, or has been sold by him, the exact amount of the consideration of such sale as made or agreed upon; and the reasons why such sale is desirable to said husband or petitioner. (How. 10940; Sec. 72; Chap. 19, P. A. 314, 1915.)

SAME; APPOINTMENT OF GUARDIAN—BOND.

105. Upon the filing of such petition, and after the requisite procedure and hearing, if the court shall decide that the respondent is insane, and that it is desired that the right of dower should be barred, it shall fix the then present value of such dower, and thereafter shall appoint a guardian of such insane person, who shall be some person other than her husband, who shall give bond in a sum to be fixed by the court, with surety or sureties, to be approved by the court, conditioned to receive and invest any moneys that may come into his hands for her sole use and benefit, under the order and direction of the court, both as to its investment and to the disposition of the income thereof. (How. 10941-2; Sec. 73-74, Chap. 19, P. A. 314, 1915.)

SAME; SALE AND CONVEYANCE OF DOWER INTEREST BY GUARDIAN.

106. Upon the approval of such bond said guardian may proceed and sell at private sale, as such guardian, the interest of such married woman in said land, at a sum not less than the value of said dower as fixed by the court. He may join with the husband in such conveyance, or if the husband has previously sold and conveyed said property, may, by separate

conveyance, deed said right of dower to the husband's grantee or grantees, his or their heirs and assigns, but to no other person. Said conveyance shall in all cases be as effective to bar the right of dower of said married woman as if she had, being in sound mind, joined her husband in a deed of said premises. (How. 10943; Sec. 75, Chap. 19, P. A. 314, 1915.)

SAME; DISPOSITION OF PROCEEDS BY GUARDIAN.

107. Said guardian shall apply the income of said money to the support of said married woman, or allow the same to accumulate, as the court shall direct; and upon the restoration of said married woman to a sound mind shall, upon the order of the court, transfer to her all the funds in his hands, and upon her death, shall deliver the same to her husband, if he shall be living at her death; if not living, then to her personal representatives. (How. 10944; Sec. 76, Chap. 19, P. A. 314, 1915.)

HOW DOWER OF INFANT MARRIED WOMAN MAY BE BARRED.

108. Any married woman residing within this State, having arrived at the age of eighteen years, may bar her right of dower in any estate conveyed or mortgaged by her husband, by joining in the deed of conveyance or mortgage and acknowledging the same as now required by law for the acknowledgment of deeds, and may do any other act concerning her rights in lands owned by her husband which she might do if she were twenty-one years of age. (How. 10945; P. A. 187, 1899.)

VALUATION OF DOWER IN CERTAIN CASES WHEN LANDS ALIENATED BY HUSBAND IN HIS LIFETIME—AWARD OF MONEY IN LIEU OF DOWER.

109. In any suit commenced by any widow for the recovery of dower in any lands, which were alienated by her husband in his lifetime, and where dower cannot be assigned therein by metes and bounds without injustice or manifest injury to the widow, or to the owner or owners, or person or persons in possession thereof, or some one of them, the court having cognizance of the matter may award and adjudge a sum of money in lieu of dower to be paid to the widow, or may assign to her, as tenant in common, a just proportion of the rents, issues and profits of said lands, regard being had to the true value of the lands at the time of such alienation by the husband, and of the probable duration of the life of the doweress, at the time such money shall be adjudged, or such rents, issues and profits shall be assigned to her. (How. 10946; Sec. 77, Chap. 19, P. A. 314, 1915.)

DOWER—WIFE JOINING WITH GUARDIAN OF HUSBAND TO SELL THE LAND AND RELEASE HER DOWER.

110. When the guardian of any married man shall be duly licensed to sell the real estate of his ward, the wife of the ward may join with the guardian in the conveyance and thereby release her right of dower. The proceeds of the sale may be so invested and disposed of as to secure to her the same right, use and benefit of the principal sum and the income thereof that she would have had in such real estate and the income thereof if it had not been sold. Any agreement made between the

wife and the guardian of her husband, for securing and disposing of the proceeds of any such sale, or any part of such proceeds, for the purposes herein mentioned, being approved and confirmed by the judge of probate who granted the license to sell, or by the circuit court on an appeal, shall be valid and binding upon all persons interested in the estate. (How. 11517-20; C. L. 8672-75.)

PAYMENT OF GROSS SUM, OR INVESTMENT OF REASONABLE SUM FOR RELEASE
OF RIGHT TO DOWER IN CASE OF SALE OF LANDS OF ANY INFANT, IDIOT,
LUNATIC, OR OTHER INCOMPETENT PERSON, UPON AGREEMENT.

111. If the real estate of any infant, idiot, lunatic or other incompetent person, or any part of it shall be subject to dower, and the person entitled to such dower shall consent in writing to accept a gross sum in lieu thereof, or the permanent investment of a reasonable sum, in such manner as that the interest thereof be made payable to the person entitled to such dower, during life, the court may direct the payment of such sum in gross or the investment of such sum as shall be deemed reasonable and shall be acceptable to the person entitled to such dower, in manner aforesaid; which sum so paid or invested shall be taken out of the proceeds of the sale of the real estate of such infant, idiot, lunatic or other incompetent person. Before any such sum shall be paid, or such investment made, the court shall be satisfied that an effectual release of such right of dower has been executed. (How. 12064-5; Sec. 53-54, Chap. 19, P. A. 314, 1915.)

DOWER CLAIMED BY TWO OR MORE WIDOWS.

112. Where dower in any lands may be claimed by two or more widows, the one whose husband was first seised therein shall be first entitled thereto; and in all cases where dower in any lands shall have been assigned, or where it shall appear that the owner or owners, or person or persons having an interest therein, shall have made full satisfaction to and has obtained a discharge from, the person recovering or having a prior right to dower therein by reason of the prior seisin of her husband, the said land shall not be subject to any other claim for dower during the lifetime of the person so recovering, or who has received satisfaction and given a discharge as aforesaid. (How. 10947; C. L. 8954.)

DRAINAGE—RELEASE OF DOWER IN RIGHT OF WAY NOT NECESSARY.

113. It is not necessary for the wife to sign the release of right of way, unless she has an interest in the land other than her inchoate right of dower. (How. 3397; Sec. 22, P. A. 272, 1899.)

CHAPTER VIII.

PARTITION.

PARTITION—DOWER—AGREEMENT WITH WIDOW.

114. Whenever the estate of any tenant in dower has been admitted by the parties, or ascertained by the court to be existing at the time of an order for sale in partition proceedings, and the person entitled to such estate has been made a party to the proceedings, the court shall first consider and determine whether the same should be sold, and in making such determination, regard shall be had to the interests of all the parties. Upon such sale being made, payment of a sum in gross out of the proceeds to the person entitled to such estate in dower, based upon the principles of law applicable to annuities, may be made upon widow's written consent to accept same in lieu of dower, such consent to be duly acknowledged. (How. 13254-6; Sec. 42-44, Chap. 31, P. A. 314, 1915.)

PARTITION—DOWER—WITHOUT THE CONSENT OF WIDOW.

115. In cases where such consent be not given, the court shall ascertain and determine the proper sum to be taken out of the proceeds and invested in permanent securities at interest, to be paid annually to the party entitled to such dower. (How. 13257-8, 71; Sec. 45, 46, 59, Chap. 31, P. A. 314, 1915.)

PARTITION, OR ASSIGNMENT OF DOWER, IN UNDIVIDED SHARE OF REALTY.

116. When partition of real estate among heirs or devisees shall be required, or dower is to be assigned to a widow in the same, and such real estate shall be in common and undivided with the real estate of any other person, the commissioners shall first divide and sever the estate of the deceased from the estate with which it lies in common, and such division so made, and established by an order of the probate court, shall be binding on all the persons interested. (How. 11164; Sec. 13, Chap. 57, P. A. 314, 1915.)

PARTITION—INCHOATE DOWER.

117. In all cases of sales under judgment or decree in partition, where it shall appear that any married woman has an inchoate right of dower in any of the lands divided or sold, or that any person has any vested or contingent future right or estate in such lands, it shall be the duty of the court under whose judgment or decree such sale is made, to ascertain and settle the proportional value of such inchoate, contingent, or vested right of estate, according to the principles of law applicable to annuities and survivorships, and to direct such proportion of the proceeds of the sale to be invested, secured or paid over in such manner as shall be judged best to secure and protect the rights and interests of the parties. (How. 13297; Sec. 85, Chap. 31, P. A. 314, 1915.)

WIFE MAY RELEASE INCHOATE DOWER TO HUSBAND.

118. Any married woman may release such right, interest or estate to her husband and acknowledge the same, and upon such release the share of the sale arising from her contingent interest shall be paid to her. Such release, and also the payment, investment, or otherwise securing any share of the proceeds of a sale, according to section 117, *supra*, shall be a bar against any such right, estate or claim. (How. 13298-9; Sec. 86-7, Chap. 31, P. A. 314, 1915.)

PARTITION—SALE OF LANDS BELONGING TO INFANT MARRIED WOMAN.

119. Whenever it shall appear satisfactorily to the court, by due proof or on report of a master, that any infant married woman holds real estate in joint tenancy or in common, or in any other manner which would authorize her being made a party to a suit in partition, and that the interest of such infant, or of any other person concerned therein, requires that partition of such estate shall be made, the court, upon petition, may appoint the husband of such infant married woman as her guardian and he may proceed under the laws governing general guardians of infants in such cases. (How. 13281-4; Sec. 69, 70, 71, 72, Chap 31, P. A. 314, 1915.)

CHAPTER IX.

DESCENT AND DISTRIBUTION.

DESCENT (REAL PROPERTY).

120. When any person shall die seised of any lands, tenements or hereditaments, or of any right thereto, or entitled to any interest therein in fee simple, or for the life of another, not having lawfully devised the same, they shall descend, subject to his debts, in the following manner;

A. Married man leaving issue, or widow and issue.

One-third to his widow and the remaining two-thirds to his issue, i. e., child or children or descendants of said child or children, and if he leaves no widow, then the whole thereof to his issue.

If all the said issue are in the same degree of kindred to the intestate, they shall share the estate equally, otherwise they shall take according to the right of representation, i. e., if said issue are all children, or are all grandchildren, they share equally, but if said issue are a child or children of the intestate *and* the issue of a deceased child or children of intestate, then the issue of such deceased child or children (the grandchildren) take the share which would have gone to their parent, if living. These latter take by "right of representation."

B. Married woman, leaving issue.

All goes to the issue. If all the said issue are in the same degree of kindred to the intestate, they share the estate equally, otherwise they

take according to the right of representation. The husband takes no part of the wife's real estate when she leaves issue surviving her.

C. Married man or woman, leaving widow or husband and parent or parents, but no issue.

One-half of the estate of such intestate shall descend to such widow or husband, and the remainder to the father and mother of the intestate in equal shares, and if there be but one of the parents living, then to the survivor alone.

D. Man or woman leaving no issue, husband or widow, but a parent or parents.

All goes to the father and mother of the intestate in equal shares, and if there be but one of the parents living, then to the survivor alone.

E. Man or woman leaving no issue, father or mother, but sister or brother or the issue of deceased sister or brother.

If a widow or husband survive the deceased, one-half to such widow or husband, and the remainder (or *all if no widow or husband survive the deceased*) to his or her brothers and sisters, and the children of deceased brothers and sisters, and if such persons are in the same degree of kindred to the intestate, they shall take equally, otherwise they shall take by right of representation: *Provided, however*, If such intestate shall die under the age of 21 years and not having been married, all the estate that came to such intestate by inheritance from a parent, which has not been lawfully disposed of, shall descend to the other children and the issue of deceased children of the same parent, if there be such children or issue, and if such persons are in the same degree of kindred to said intestate they shall take equally, otherwise by right of representation.

F. Man or woman, leaving no issue, husband, widow, father, mother, brother, sister, or child of a deceased brother or sister.

All goes to the next of kin in equal degree, excepting that when there are two or more collateral kindred in equal degree but claiming through different ancestors, those who claim through the nearest ancestor shall be preferred to those claiming through an ancestor more remote.

G. Man or woman leaving widow or husband, but no issue, father, mother, brother, sister, or child of a deceased brother or sister.

All goes to widow or the husband of the intestate. (How. 10959; C. L. 9064, amended P. A. 286, 1909.)

See section 123, *infra*, re distribution of personal property.

PROVISION FOR WIDOW IN LIEU OF DOWER AND HOMESTEAD—ELECTION.

121. The foregoing provision for the widow is in lieu of her dower and homestead right, unless she shall, within one year after letters of administration have been granted upon the estate of her deceased husband, begin proceedings for the assignment to her of such dower and homestead, in which case her interest in the lands of her deceased husband shall be limited to such dower and homestead and the residue of such estate shall then descend as herein provided for the portion thereof not taken by such widow: *Provided*, That the judge of probate may, any time before the estate is closed, upon petition of the widow, after notice to all persons interested, permit the widow to begin proceedings and to have her dower and homestead right the same as though she had done so within the year hereinbefore provided, when on account of litigation

connected with the estate or the establishment of further claims against the deceased, or any other cause, he deems it proper so to do, and said judge shall, in such order, limit the time within which the widow shall begin such proceedings: *Provided further*, That in case the administrator shall, after the expiration of the year herein provided and before such order of the court permitting the widow to take her dower, have sold and conveyed real estate of the deceased, the widow's dower and homestead shall be set off to her out of the lands not so conveyed, but to the amount and value she was entitled to at the death of her husband, if so much remains unsold. (How. 10959; C. L. 9064, amended P. A. 286, 1909.)

WHEN LANDS ESCHEAT.

122. If the intestate shall leave no wife or husband or kindred, his or her estate, as the case may be, shall escheat to the people of this State for the use of the primary school fund. (How. 10959; C. L. 9064, amended P. A. 286, 1909.)

DISTRIBUTION (PERSONAL PROPERTY).

123. When any person shall die possessed of any personal estate, or of any right or interest therein not lawfully disposed of by his last will, the same shall be applied and distributed as follows:

A. Specific articles allowed to widow.

The widow, if any, shall be allowed all her articles of apparel and ornaments, and all wearing apparel and ornaments of the deceased, and the household furniture of the deceased, and other personal property, to be selected by her, not exceeding in value two hundred dollars, and the allowance shall be made as well when the widow waives the provision made for her in the will of her husband as when he dies intestate.

See also section 132, *infra*.

B. Allowance to widow and children for maintenance pending settlement of estate.

The widow and children constituting the family of the deceased shall have such reasonable allowance out of the estate as the probate court shall judge necessary for their maintenance during the progress of the settlement of the estate, according to their circumstances, which, in case of an insolvent estate, shall not be longer than one year after granting administration, nor for any time after the dower and personal estate shall be assigned to the widow.

C. Allowance for maintenance of children until ten years of age when left with no mother or mother dies before they reach that age or when mother insane.

When a person shall die leaving children under ten years of age, having no mother, or when the mother shall die before the children shall arrive at the age of ten years or where the mother shall have been adjudged insane by any court of competent jurisdiction and shall not have recovered her sanity before such children arrive at the age of ten years, an allowance shall be made for the necessary maintenance of such children until they arrive at the age of ten years, out of such part of the personal estate and the income of the real estate as would have been assigned to the mother if she had been living and sane.

D. Disposition of estate not exceeding above allowances by more than \$150.

If, on the return of the inventory of any intestate estate, it shall appear that the value of the whole estate does not exceed the sum of one hundred fifty dollars over and above the allowance above provided for, the probate court may, by a decree for that purpose, assign for the use and support of the widow and children of such intestate, or for the support of the children under ten years of age, if there be no widow, the whole of such estate, after the payment of the funeral charges and expenses of administration.

See also section 136, *infra*.

E. Payment of debts of deceased, funeral expenses and expenses of settling estate.

If the personal estate shall amount to more than one hundred fifty dollars and more than the allowance mentioned in the preceding paragraph, the same shall be applied to the payment of the debts of the deceased, with the charges of the funeral and of settling his estate.

See also sections 137 to 139, *infra*.

F. Distribution of residue of personal estate.

(1) Man or woman leaving widow or husband, and issue.

One-third to the widow or husband and the remaining two-thirds to her or his children, or the issue of any deceased child or children, if any there be, by right of representation, except that if there be but one child or the issue of a deceased child, her or him surviving, then such residue shall be divided between such widow or husband and such child or the issue of such deceased child, as aforesaid, in equal proportions.

(2) Man or woman leaving no widow, or husband, or child, but leaving issue.

All goes to lineal descendants of the intestate, and if all said descendants are in the same degree of kindred to the intestate, they shall share the estate equally, otherwise by right of representation.

(3) Man or woman leaving widow or husband, but no issue surviving.

(a) Man.

All the residue up to three thousand dollars goes to the widow, and all over three thousand dollars is divided, one-half to the widow and the other half to the father and mother of the deceased, if living, in equal shares; if either parent be deceased, such share shall go to the survivor; if both parents be deceased, such share shall be distributed equally to the brothers and sisters and the lineal descendants of any deceased brother or sister by right of representation.

(b) Woman.

One-half of said residue goes to the husband and the other half goes to her father and mother, if living, in equal shares; if either parent be deceased, such share shall go to the survivor; if both parents be deceased such share to be distributed equally to the brothers and sisters and the lineal descendants of any deceased brother or sister by right of representation.

(4) Man or woman leaving widow or husband, but neither issue nor father, mother, brother, or sister, or children of such brother or sister.

All goes to the widow or husband of the intestate.

(5) All other cases.

The residue in all other cases is to be distributed in the same proportion and to the same persons, and for the same purposes, as prescribed for the descent and disposition of the real estate. (How. 11038; Sec. 1, chap 57, P. A. 314, 1915.)

See Section 120, *supra*, re Descent of Real Property.

WHO ENTITLED TO ADMINISTER ESTATE.

124. The widow, husband or next of kin, or a grantee of the interest of one or more of them, or such of them as the judge of probate may think proper, or such person or persons as the widow, husband, next of kin or grantee may request to have appointed, if suitable and competent to discharge the trust, shall have the preference for appointment as administrator. (How. 11040; Sec. 2, Chap. 53, P. A. 314, 1915.)

ILLEGITIMATE CHILD INHERITS FROM MOTHER BUT CANNOT CLAIM BY REPRESENTATION.

125. An illegitimate child is considered as an heir of his mother and inherits her estate in like manner as if born in lawful wedlock, but is not allowed to claim, as representing his mother, any part of the estate of any of her kindred, either lineal or collateral. (How. 10960; C. L. 9065.)

WHO MAY INHERIT FROM ILLEGITIMATE CHILD.

126. If any illegitimate child shall die intestate, without lawful issue, his estate shall descend to his mother; if she be dead, it shall descend to the relatives of the intestate on the part of the mother, as if the intestate had been legitimate. (How. 10961; C. L. 9066.)

LEGITIMATION OF ILLEGITIMATE CHILD.

127. When after the birth of an illegitimate child, his parents shall intermarry, or without such marriage, if the father shall, by writing under his hand, acknowledge such child as his child, such child shall be considered legitimate for all intents and purposes: *Provided*, That such acknowledgment shall be executed and acknowledged in the same manner as may be by law provided for the execution and acknowledgment of deeds of real estate, and be recorded in the office of the judge of probate of the county in which such father is at the time a resident. (How. 10962; C. L. 9067.)

DEGREES OF KINDRED.

128. The degrees of kindred shall be computed according to the rules of the civil law, i. e., by counting up the line to the common ancestor and then down to the person whose degree of kinship is being computed; and kindred of the half blood shall inherit equally with those of the whole blood in the same degree, unless the inheritance come to the intestate by descent, devise or gift of some one of his ancestors, in which case, all those who are not of the blood of such ancestor shall be excluded from such inheritance. (How. 10963; C. L. 9068.)

ADOPTED CHILDREN.

129. Whenever any person heretofore or hereafter adopted by any person or persons, with intent to make such person an heir at law of the person or persons adopting the same, shall die intestate, leaving no issue, any real estate possessed by such person at the time of his or her decease which has come to such person from or through such adopting parent or parents, shall descend to the same persons and in the same manner as though such person had been the natural child of the person or persons from or through whom such estate shall have come as aforesaid. (How. 10972; C. L. 9077.)

BIGAMOUS WIFE OR HUSBAND.

130. No person, who, at the time of the death of the lawful husband or wife of such person, was or shall be living with another person, within or without the State, pursuant to a purported marriage but in fact in a bigamous relation, shall inherit or take any estate, right or interest whatever, by way of dower, allowance, inheritance, distribution or otherwise, in the property of estate, real or personal, of the deceased. (How. 10973; P. A. 327, 1905.)

CHAPTER X.

WILLS.

CAPACITY OF WOMEN TO DEVISE AND BEQUEATH PROPERTY.

131. Every woman, married or single, of full age and sound mind, may devise and bequeath all her right, title and interest in all of her real and personal property in the manner provided by the general laws of this state relating to wills.

See sections 50, 63 and 68, *supra*.

LIMITATIONS ON MARRIED MAN'S POWER TO WILL PERSONAL PROPERTY.

132. All dispositions of personal property by last will and testament shall be subject to the following limitations and restrictions:

A. If the testator shall leave surviving him a wife, the testamentary disposition shall be subject to the election of such wife to take any interest that may be given to her by the testator in his last will and testament; or, in lieu thereof, to take the sum or share that would have passed to her under the statute of distributions (see section 123-F, *supra*) had the testator died intestate, until the sum shall amount to five thousand dollars, and, of the residue of the estate, one-half the sum or share that would have passed to her under the statute of distributions, had the testator died intestate; and, in case no provision be made for her in said will, she shall be entitled to the election aforesaid.

B. If in any will any special devise or bequest is made to the wife in lieu of any particular thing or any particular interest to which such wife might be entitled in case of intestacy, the election by the wife to

take the special devise or bequest, or the other particular thing or interest in lieu of which it is given, shall not deprive the party electing, or any other person, of the right to leave the testamentary disposition of property in all other respects unaffected and unimpaired and to have the benefit of any other provisions therein, the same as he or she would have had, if this act had not been passed. (How. 11013; Sec. 33, Chap. 52, P. A. 314, 1915.)

WIDOW'S ELECTION IN SUCH CASES, HOW MADE.

133. The election to take otherwise than under the will, in any contingency above contemplated, shall be made in writing and filed in the court in which proceedings for the settlement of the estate are being taken, within one year from the probate of the will; and the failure to file such election within the time above provided shall be deemed an election to take under the will. (How. 11014; Sec. 34, Chap. 52, P. A. 314, 1915.)

As to widow's election between provision in will and dower, see section 93, *supra*.

CHAPTER XI.

SETTLEMENT OF ESTATES.

Most laws relative to the settlement of estates are equally applicable to men and women. Only those provisions pertaining especially to women are included in this chapter.

ALLOWANCE FOR MAINTENANCE OF WIDOW AND MINOR CHILDREN, WIDOW'S DOWER, AND OTHER LIMITATIONS ON THE SALE OF THE ESTATE OF THE DECEASED PERSON TO PAY DEBTS.

134. All the estate of a deceased person, real and personal, except the widow's dower, may be sold by the executor or the administrator if necessary for the payment of debts of the estate and the expenses of administration, and the probate court may make such reasonable allowance as may be judged necessary for the expenses of the maintenance of the widow and minor children, or either, constituting the family of the deceased, out of his estate during the progress of the settlement of the estate, but never for a longer period than until their shares in the estate shall be assigned to them or for longer than one year in any case. (Sec. 22, Chap. 52, and Sec. 5, Chap. 54, P. A. 314, 1915.)

See also section 123-A to D, *supra*.

FAMILY IN POSSESSION NOT TO BE NEEDLESSLY DISTURBED.

135. The executor or administrator is empowered to take possession of both the real and personal estate of the deceased, but he is not empowered to interfere with the possession of the homestead. It is not expected that he will disturb the possession of the decedent's family

except so far as the proper discharge of his duties may require it. (Sec. 6, Chap. 54, P. A. 314, 1915; *Brown v. Forsche*, 43 Mich. 497.)

SETTLEMENT OF ESTATES OF LIMITED VALUE—NOT EXCEEDING ONE HUNDRED FIFTY DOLLARS EXCLUSIVE OF FURNITURE AND OTHER PERSONAL PROPERTY ALLOWED TO THE WIDOW.

136. When the value of the whole estate, exclusive of the furniture and other personal property allowed to the widow, shall not exceed one hundred fifty dollars, and shall be assigned for the support of the widow and children, as provided by law, such assignment shall be deemed a full and final administration and a bar to all claims against the estate. (How. 11078; Sec. 1, Chap. 55, P. A. 314, 1915.)

See section 123-D, *supra*.

SETTLEMENT OF ESTATE OF INTESTATE LEAVING A WIDOW OR CHILDREN, NO REAL ESTATE, AND LESS THAN FIVE HUNDRED DOLLARS WORTH OF PERSONALTY.

137. When application shall be made to the judge of probate for the appointment of an administrator on an intestate estate, such petition may contain in addition to other matters therein required to be set forth, the following:

A. A true and complete inventory of the estate of said deceased, appraised under oath by one or more freeholders of the county at its true cash value.

B. A bond running to the judge of probate in the penal sum of not less than three hundred dollars, with such surety or sureties as the judge of probate may approve, conditioned for the payment of the funeral expenses of said deceased within one year from the date of death of such deceased. (Sec. 24, Chap. 53, P. A. 314, 1915.)

SAME; APPOINTMENT OF ADMINISTRATOR.

138. If from such petition and from such investigation as the judge of probate may deem necessary and proper, it shall appear to the satisfaction of the court that said deceased left surviving him a widow or children under the age of sixteen years, or both; that said deceased died seised of no real estate; and that the personal estate of such deceased, appraised at its true cash value, amounts to less than the sum of five hundred dollars, the court may thereupon grant administration of said estate to such petitioner or some other suitable person forthwith without further notice, and may issue letters of administration to such administrator without requiring further bonds. (Sec. 25, Chap. 53, P. A. 314, 1915.)

SAME; FINAL SETTLEMENT—DISCHARGE OF ADMINISTRATOR.

139. Whenever it shall appear to the satisfaction of the judge of probate that the administrator appointed under the provisions of the foregoing paragraph has paid or caused to be paid the funeral expenses of said deceased, and has paid over to the widow of said deceased, or in case there shall be no widow, to the guardian of the minor children of

said deceased, all the balance and residue of said estate, the court may forthwith discharge such administrator without further accounting and without notice. (Sec. 26, Chap. 53, P. A. 314, 1915.)

CHAPTER XII.

EXEMPTIONS.

PERSONAL PROPERTY EXEMPT FROM EXECUTION.

140. In accordance with Section 1, Article XIV of the Constitution, providing that the personal property of every resident of this state, to consist of such property only as shall be designated by law, shall be exempted to the amount of not less than five hundred dollars from sale on execution or other final process of any court, the legislature has designated the following personal property as exempt from levy and sale under any execution or upon any other final process of a court:

A. All sewing machines, not exceeding one machine for each family, all spinning wheels, weaving looms with the apparatus, and stoves put up and kept for use in any dwelling house.

B. A seat, pew or slip, occupied by such person or family in any house or place of public worship.

C. All cemeteries, tombs and rights of burial, while in use as repositories of the dead.

D. All arms and accoutrements required by law to be kept by any person; all wearing apparel of every person or family.

E. The library and school books of every individual and family, not exceeding one hundred and fifty dollars in value, and all family pictures.

F. To each householder, ten sheep, with their fleeces, and the yarn or cloth manufactured from the same; two cows, five swine, and provisions and fuel for comfortable subsistence of such householder or family for six months.

G. To each householder, all household goods, furniture and utensils, not exceeding in value two hundred and fifty dollars.

H. The tools, implements, materials, stock, apparatus, team, vehicle, horses, harness, or other things, to enable any person to carry on the profession, trade, occupation or business in which he is wholly or principally engaged, not exceeding in value two hundred and fifty dollars. The word "team" in this subdivision shall be construed to mean either one yoke of oxen, a horse, or a pair of horses, as the case may be. The property mentioned in this subdivision is not exempt from execution issued upon a judgment for the purchase money for the same property.

I. A sufficient quantity of hay, grain, feed and roots, whether growing or otherwise, for properly keeping for six months the animals in the several subdivisions of this section exempted from execution, and any chattel mortgage, bill of sale, or other lien created on any part of property above described, except such as is mentioned in subdivision "H" of this section, shall be void, unless such mortgage, bill of sale or lien be

signed by the wife, if he have any, of the party making such mortgage, bill of sale or lien.

J. The shares held by any member, being a householder, of any association incorporated under the provisions of act number seventeen of 1901, relating to mutual building and loan associations, shall be exempted from levy and sale on execution or attachment to the amount of one thousand dollars in such shares, at the par value thereof: *Provided*, That such exemption shall not apply to any person who shall have a homestead exempted under the general laws of this state. (Sec. 43, 44, 45, Chap. 23, P. A. 314, 1915.)

See also sections 136 to 139, *supra*.

HOMESTEADS—QUANTITY AND VALUE EXEMPT.

141. Every homestead of not exceeding forty acres of land and the dwelling house thereon and the appurtenances to be selected by the owner thereof, and not included in any town plat, city or village; or instead thereof, at the option of the owner, a quantity of land not exceeding in amount one lot in any city, village or recorded town plat, and the dwelling house thereon and its appurtenances, owned and occupied by any resident of the state, not exceeding in value fifteen hundred dollars, shall be exempt from forced sale on execution or any other final process from a court, for any debt or debts growing out of or founded upon contract, either express or implied. Such exemption shall not extend to any mortgage thereon lawfully obtained, but such mortgage or other alienation of such land by the owner thereof, if a married man, shall not be valid without the signature of his wife to the same, unless such mortgage shall be given to secure the payment of the purchase money or some portion thereof. The law is deemed and construed to exempt such homestead during the time it shall be occupied by the widow or minor child or children of any deceased person who was, when living, entitled to the benefits of the act. The provision extending the protection of the homestead for the benefit of the widow and children after the owner's death does not exempt the fee in homestead lands from sale, but exempts the land only while it is occupied as a homestead by the widow and minor children. Subject to the homestead rights of the widow and children, the lands are assets when needed for the payment of debts of the estate. (Sec. 2, 3, 4, Art. XIV, Const.; How. 13072-3; Sec. 73-74, Chap. 23, P. A. 314, 1915.)

IN WHAT LANDS HOMESTEAD RIGHT MAY EXIST—HOUSE ON LAND BELONGING TO ANOTHER.

142. Homestead rights may exist in lands held in joint tenancy or tenancy in common (*Cleaver v. Bigelow*, 61 Mich. 47; *Vermont Savings Bank v. Elliott*, 53 Mich. 256), but there cannot be two homesteads at the same time (*Wheeler v. Smith*, 62 Mich. 373); nor can the right exist in two distinct places (*LaPlant v. Lester*, 150 Mich. 336). Any person owning and occupying any house on land not his own, and claiming said house as a homestead, shall be entitled to the exemption aforesaid. (How. 13077; Sec. 78, Chap. 23, P. A. 314, 1915.)

DISPOSITION OR FORFEITURE OF HOMESTEAD RIGHTS.

143. A widow may not dispose of the children's homestead right (Gerber v. Upton, 123 Mich. 605), but a widow whose only child dies after her husband, and who marries again, thereby absolutely forfeits all further homestead rights in the property left by her former husband (Dei v. Habel, 41 Mich. 88).

HOMESTEAD NOT EXEMPT FROM TAXATION—EXCEPTION.

144. Homesteads are subject to taxation, except that all real estate used as a homestead not exceeding in value \$1,200 of any widow of any soldier or sailor of the Federal Government who served three months or more during the Civil war, upon such widow's making and filing with the supervisor or assessing officer an affidavit stating under oath that she is the widow of a soldier or sailor of the Federal Government who served not less than three months as such soldier or sailor during the Civil war, will be exempt from taxation. (How. 13078; Sec. 79, Chap. 23, P. A. 314, 1915; C. L. 3830, amended P. A. 309, 1909.)

PROCEDURE WHEN HOMESTEAD EXCEEDS ONE THOUSAND FIVE HUNDRED DOLLARS IN VALUE.

145. When land or property claimed as a homestead exceeds one thousand five hundred dollars in value, the owner may be required to pay the surplus of appraised value or the homestead must be sold, one thousand five hundred dollars of the proceeds to be turned over to the owner (which \$1,500 is exempt from levy or execution for one year thereafter) and the balance to be applied on the execution. (Sec. 80-81, Chap. 23, P. A. 314, 1915.)

SALE OF HOMESTEAD OF DECEASED PERSONS TO PAY DEBTS.

146. If all or part of the homestead is needed to pay the debts of the estate of a deceased person, or a person under guardianship, and it is appraised at more than one thousand five hundred dollars, and the land cannot be divided so as to leave the homestead within the one thousand five hundred dollar valuation, the entire tract or lot may be sold, one thousand five hundred dollars to go to the executor, administrator, or guardian for the benefit of the widow, ward, wife, or family as the case may be; to be invested under the direction of the probate judge in a new homestead or otherwise in proper securities; and, in whatever form, to remain exempt from payment of debts of deceased and expense of administering his estate in the same manner as a legal homestead, had deceased left one, would have remained exempt; and shall finally descend according to the laws governing the descent of real property; or upon the termination of the guardianship shall be paid to the ward. (How. 13081-4; Sec. 45-48, Chap. 59, P. A. 314, 1915.)

MECHANICS' LIENS ON HOMESTEADS OR LAND HELD JOINTLY BY HUSBAND AND WIFE.

147. In case title to lands upon which improvements are made is held by husband and wife jointly, or in case the lands upon which such

improvements are made are held and occupied as a homestead, the lien given to mechanics and others for improvements attaches to such lands and improvements only if the improvements be made in pursuance of a contract in writing signed by both the husband and the wife. However, the lien attaches to property occupied as a homestead as to the excess over the one thousand five hundred dollar exemption, even though the wife does not join in the contract. (How. 13767; C. L. 10711; Scott v. Keeth, 152 Mich. 547.)

INHERITANCE TAX—EXEMPTIONS FOR WIDOWS AND OTHERS.

148. The inheritance tax law, providing for the taxation of inheritances, transfers of property by will, transfer of property by deed, grant, bargain, sale, or gift made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after his death, where such property equals or exceeds five hundred dollars in value, makes the following exception:

When the property or any beneficial interest therein passes by any such transfer to or for the use of one or more of the following named persons: Grandfather, grandmother, father, mother, husband, wife, child, brother, sister, wife or widow of a son, or the husband of a daughter, or to or for the use of any child or children adopted as such in conformity with the laws of this state or any other state or country, of the decedent, grantor, donor or vendor; or to or for the use of any persons to whom any such decedent, grantor, donor, or vendor stood in the mutually acknowledged relation of a parent: *Provided however*, That such relationship began at or before the child's seventeenth birthday and continued until the death of such decedent, grantor, donor, or vendor; or to or for the use of any lineal descendant of such decedent, grantor, donor or vendor; such transfer of property shall not be taxable under this act, unless it is personal property of the clear market value of \$2,000, or over, and when the transfer is to wife, such transfer of property shall not be taxable unless it is personal property to the clear market value of five thousand dollars or over, in which case the entire transfer shall be taxed under this act at the rate of one per cent upon the clear market value thereof. The exemptions of this section shall apply and be granted to each beneficiary's interest therein, and not to the entire estate of a decedent. No deductions or exemptions from such tax shall be made for any allowance granted by the order of any court for the maintenance and support of the widow or family of a decedent pending the administration of the estate, when there is income from such estate accruing after death, which is available to pay such allowance, or for a longer period than one year, or for a greater amount than is actually used and expended for the maintenance and support of such widow or family for one year. (Sec. 2, P. A. 188, 1899, amended P. A. 198, 1915.)

WOMEN EXEMPT FROM IMPRISONMENT IN CIVIL ACTIONS.

149. No female shall be imprisoned upon any process in any civil action. (Sec. 42, Chap. 13, P. A. 314, 1915.)

CHAPTER XIII.

WITNESSES.

HUSBAND AND WIFE AS WITNESSES FOR OR AGAINST EACH OTHER—STATUTORY PROVISIONS.

150. No person shall be excluded from giving evidence in any matter, civil or criminal, by reason of marital relationship to any party thereto; but such relationship may be shown for the purpose of drawing in question the credibility of such witness, except as is hereinafter provided. A husband shall not be examined as a witness for or against his wife without her consent; nor a wife for or against her husband without his consent; *except* in suits for divorce and in cases of prosecution for bigamy, and where the cause of action grows out of a personal wrong or injury done by one to the other, or grows out of the refusal or neglect to furnish the wife or children with suitable support, and except in cases of desertion and abandonment, and cases arising under Act 136 of 1905 relating to marriage; and cases where the husband or wife shall be a party to the record in a suit, action, or proceeding, where the title to the separate property of the husband or wife so called or offered as a witness, or where the title to property derived from, through or under the husband or wife so called or offered as a witness, shall be the subject matter in controversy or litigation in such suit, action or proceeding, in opposition to the claim or interest of the other of said married persons, who is a party to the record in such suit, action or proceeding, and in all such cases, such husband or wife who makes such claim of title, or under or from whom such title is derived, shall be as competent to testify in relation to said separate property and the title thereto, without the consent of said husband or wife, who is a party to the record in such suit, action or proceeding, as though such marriage relation did not exist; nor shall either, during the marriage or afterwards, without the consent of both, be examined as to any communication made by one to the other during the marriage, but in any action or proceeding instituted by the husband or wife, in consequence of adultery, the husband and wife shall not be competent to testify. (Secs. 63 and 67, Chap. 17, P. A. 314, 1915.)

SAME; SPECIFIC CASES.

151. The testimony of a husband on a former trial is not admissible on a subsequent trial over the wife's objection (*Whelpley v. Stoughton*, 119 Mich. 314), nor can a contract made by a husband as agent for his wife be proved by his testimony, nor is it admissible to corroborate evidence to the execution of the contract (*Quillan v. Van Dyke's Estate*, 171 Mich. 195); but the statute does not prevent the testimony of a husband or wife, in his or her suit against the other, concerning a business transaction between them (*Dowling v. Dowling*, 116 Mich. 346), nor is a husband disqualified, in a suit to set aside a deed to his wife as

in fraud of creditors, from showing that it was in payment of a debt due from him (*Ward v. Oliver*, 129 Mich. 300), the statute being declaratory of the common law and protecting only confidential communications (*Leonard v. Piggott*, 152 Mich. 436). Letters from the husband or the wife to the other party to the marriage which come into a third party's hands without collusion on the part of the spouse to whom written, are not privileged. (*People v. Dunnigan*, 163 Mich. 349; *O'Toole v. Ohio Germain F. Ins. Co.*, 159 Mich. 187.) When title to their separate property is in litigation between husband and wife, communications made in the confidence of the marriage relation relating thereto may be testified to by them without such consent; and a wife may testify in a suit between her husband and the assignee of her sole property as to a communication between her husband and herself in relation thereto. (*Hunt v. Eaton*, 55 Mich. 362.) The privilege as to confidential communications, when it exists at the time of disclosure, survives separation, divorce and death. (*People v. Bowen*, 165 Mich. 231.)

CHAPTER XIV.

DESERTION.

WHEN WIFE MAY PETITION FOR ALIMONY IN CASE OF DESERTION.

152. Whenever a husband shall without good and sufficient cause desert his wife, being of sufficient ability to support her, or shall have become an habitual drunkard since their marriage, or practiced extreme cruelty towards her, or committed the crime of adultery, or any other offense that entitles the wife to a decree of divorce or of separation, and shall refuse and neglect to support his wife, either the wife or husband being a resident of this state, the circuit court in chancery in any county in this state in which said husband or wife shall reside, shall on the application of the wife by petition decree to her as alimony the use of such part of her husband's real and personal estate, or such proportion of his earnings, income or revenue as the court may determine, in its discretion, and, during the pending of the proceedings, may require the husband to pay such sums to carry on the proceeding, or for her support, as it shall deem necessary. No decree shall be made in favor of the petitioner unless on the hearing either such a state of facts shall appear as would entitle her, as far as the husband's wrongful acts are shown, to a decree of divorce upon the grounds specified in the petition, or unless such a state of facts set out in the petition shall be proven as shall make it appear that the respondent has deserted the petitioner with the intent to leave her without adequate means of support without good and sufficient cause; and the husband shall be permitted to allege in his answer to the petition any facts which would prevent or bar a divorce upon the grounds alleged in said petition, and to make proof of the same in conformity with such answer: *And provided further*, That an appeal from the final order or decree may be taken to the supreme court as in chancery cases, except that, if the wife shall take such appeal,

she shall not, in the discretion of the court, be required to file an appeal bond. (How. 11534; C. L. 8686.)

COURT MAY ISSUE INJUNCTION RESTRAINING DISPOSAL OF HUSBAND'S PROPERTY AND MAY, IN PROPER CASES, ORDER SALE OF SUCH PROPERTY.

153. In such a proceeding the court may, in certain cases, make an order for the appearance of the respondent by publication, issue an injunction restraining the sale and incumbrance of property, stocks and securities, or the collection of credits by the respondent, and, to enforce its decree, said court may cause execution to be issued and levied upon any of the husband's estate to be found in this state, including stock in any corporation, and where choses in action are due and owing the husband from any resident of the state, the court may, upon thirty days' notice to the husband, given personally or by publication in proper cases, decree that the same be sold in the same manner as personal chattels are sold upon execution from courts of record. (How. 11536; C. L. 8687.)

CUSTODY AND MAINTENANCE OF MINOR CHILDREN—POSSESSION OF HUSBAND'S PROPERTY—SUPPORT OF WIFE AND CHILDREN.

154. The court may also order and decree concerning the care, custody and maintenance of minor children, and may determine with which of the parties the children, or any of them, shall remain, and during the pendency of the proceeding, may assign and decree to the wife the possession of any real and personal estate of the husband, and the court may decree the payment of a fixed sum of money for the support of such wife and minor children, and that the payment of same be secured upon real estate or otherwise at such time and in such manner as may be proper. The court may change the allowance from time to time, and may revoke such allowance altogether on satisfactory proof of a voluntary and permanent reconciliation: *Provided*, That such allowance shall be only during the joint lives of such husband and wife. (How. 11533; C. L. 8688.)

CUSTODY OF CHILDREN—PRESUMPTION—WELFARE OF CHILDREN GOVERNS.

155. In case of separation of husband and wife having minor children, the mother shall be entitled to the care and custody of all such children under the age of twelve years, and the father shall be entitled to the care and custody of all such children over twelve years, but in every case, notwithstanding the foregoing provision, any court of competent jurisdiction may make and enforce such order or orders as it may deem just and proper as to the care and custody of such minor children. (How. 11537; C. L. 8689.)

HUSBAND IMPRISONED FOR DESERTION—PENSION FOR WIFE.

156. When any person is convicted and imprisoned for deserting his wife or minor children under fifteen years of age without leaving proper shelter, food, care and clothing, the warden or superintendent of the institution where the husband is confined shall, at the end of each week, remit to the superintendents of the poor of the city or county where such wife or children reside, the sum of one dollar and fifty cents per

week for the wife and fifty cents additional for each child under the age of fifteen years, in lieu of any earnings of such person while an inmate therein, such sums to be expended for the support of such wife and minor children. (How. 11540; P. A. 144, 1907.)

See sections 190 to 192, *infra*.

CHAPTER XV.

PENAL AND REFORMATORY INSTITUTIONS FOR WOMEN AND GIRLS, AND THE REGULATION THEREOF.

HOUSE OF THE GOOD SHEPHERD OF DETROIT.

WHAT GIRLS MAY BE SENTENCED THERETO—RELEASE, ETC.

157. On conviction of any offense for which a girl may be sent to the State Industrial Home for Girls, when requested by the parents or guardian of any girl over the age of seven years and under the age of seventeen years, the police justices of the city of Detroit, the justices of the peace of any township in Wayne County, and the Recorder's Court of Detroit may commit such girls to imprisonment in the House of the Good Shepherd of the City of Detroit for the like period as by law such girls may be committed to the State Industrial Home for Girls or the House of Correction. Whenever the persons in charge of the House of the Good Shepherd deem any one so sentenced to have so far reformed as to justify her discharge, they may, in their discretion, liberate her or bind her for the term of said commitment by articles of indenture to any suitable person who shall engage to educate said girl, and to instruct her in household work, or in some proper art or trade, or they may return such girl to her parents or guardian. (How. 15460; C. L. 2222.)

DETROIT HOUSE OF CORRECTION.

WHAT FEMALE OFFENDERS MAY BE SENTENCED TO IMPRISONMENT IN THE DETROIT HOUSE OF CORRECTION.

158. Whenever any female shall hereafter be convicted in any court of this state of any crime or offense which, under the existing laws of the state, would subject her to imprisonment in the Michigan State Prison, Michigan Reformatory or the Branch State Prison in the Upper Peninsula, the court shall sentence such female to imprisonment in the Detroit House of Correction instead of the said prisons for such term as may be authorized by law. This provision makes the Detroit House of Correction the state prison for women. (How. 15482; C. L. 2176, amended by P. A. 257, 1909.)

COMMON PROSTITUTES IN THE COUNTY OF WAYNE MORE THAN FIFTEEN YEARS OF AGE.

159. Every person more than fifteen years of age, who is a common prostitute shall, upon conviction thereof in the county of Wayne, be

punished by imprisonment in the Detroit House of Correction for a term of three years. The inspectors of the Detroit House of Correction may establish rules and regulations under which women confined in said House by virtue of this paragraph may, upon reformation, or marked good behavior, be absolutely discharged from imprisonment therein, or be released conditionally from residence in said House before their term of imprisonment has expired, which rules and regulations shall be approved by the Circuit Judge of the County of Wayne and the Recorder of the City of Detroit. The persons released conditionally may, at any time before the expiration of their terms of imprisonment, be returned to a residence in said House under and by the written order of the said inspectors, which order shall be authority for any officer of said House, sheriff, or policeman to arrest and return said persons. (How. 15493-4; C. L. 21867.)

COURTS OF RECORD MAY SENTENCE FEMALE OFFENDERS NOT MORE THAN
FIFTEEN YEARS OF AGE TO IMPRISONMENT IN THE
DETROIT HOUSE OF CORRECTION.

160. All courts of record having criminal jurisdiction in the state of Michigan, and all police justices, and justices of the peace in said state, in the exercise of their criminal jurisdiction, *may* sentence female offenders, who are not more than fifteen years of age, to the Detroit House of Correction, there to remain and be kept until they are twenty-one years of age, or until discharged therefrom before that time under such rules and regulations as the inspectors of said House may adopt. (How. 15495-8; C. L. 2188-91.)

STATE INDUSTRIAL HOME FOR GIRLS.

MANAGEMENT AND CONTROL OF THE INDUSTRIAL HOME.

161. The State Industrial Home for Girls at Adrian is under the sole and exclusive management and control of a board of three persons, such persons being appointed by the Governor, by and with the advice and consent of the Senate, each member to hold office for a term of six years. Said board has power to make, alter and amend rules for governing said institution, to appoint necessary officers and employees, to enforce discipline, and to make all such general rules and regulations as may be necessary to carry out the objects and purposes of the institution and execute the laws relative thereto. No member of said board is entitled to any compensation for his services, except the resident member who is the treasurer and performs such other services as the board may assign to him, for all of which services he receives a salary of \$300 per annum.

The Governor may remove any member of the board for cause, and, in case of a vacancy, may appoint a member to fill such vacancy until the next meeting of the legislature, unless removed as aforesaid. (How. 15446-8-9; C. L. 2218-20-21.)

WHAT GIRL OFFENDERS MAY BE SENTENCED TO THE INDUSTRIAL HOME FOR
GIRLS—PHYSICAL EXAMINATION.

162. Every girl between seven and seventeen years of age, who shall be convicted before any court or magistrate of competent jurisdiction, of being a disorderly person, of delinquency, or of any offense not punishable by imprisonment for life, shall, except in cases deemed incorrigible, be sentenced to said Industrial Home until she shall reach the age of twenty-one years, if such court or magistrate shall deem the girl so convicted a fit subject to be committed to said Industrial Home. The board shall have authority to make rules reducing the term for which such girls shall have been sentenced, as a reward for good conduct. Girls sentenced to said Industrial Home must be subjected to a careful examination by a regularly authorized and competent physician. If any such girl is found to be afflicted with any venereal, contagious or infectious disease, chronic epilepsy, or imbecility, or is pregnant, or there exists any other cause or defect which would make her a menace to those already in said Industrial Home, or if exposed to smallpox, diphtheria, scarlet fever or typhoid fever within fourteen days next preceding, such girl shall be delivered to the superintendent of the poor of such county for care and medical treatment in the county house or elsewhere until the examining physician, or another acting in his stead, certifies that the obstacles to her entering the said Industrial Home are removed, when the sentence of said court shall be executed as though no delay or cause of delay had intervened. Before any sentence made by a police court or a justice of the peace under this act shall be executed, it shall be approved by the circuit or probate judge of the county, and if such sentence shall be disapproved, the police court or justice of the peace shall have power to pronounce the ordinary sentence prescribed by law. (How. 15451-2-3; C. L. 2210-11-12.)

As to girls deemed incorrigible, see sections 158 and 160, supra.

RELEASE, INDENTURE, OR PAROL OF GIRLS SENTENCED TO THE STATE
INDUSTRIAL HOME FOR GIRLS.

163. Whenever they shall deem any inmate of said Industrial Home to have been so far reformed as to justify her discharge, the board of control may liberate such inmate or bind her by articles of indenture to any suitable person who will engage to educate said girl, and to instruct her in household work, or in some proper art or trade, or said board may return any such girl to her parents or other guardians, when they shall have become bound to said board with sufficient sureties for her good behavior and care, or said board may place any such girl in the care of any resident of this State who is the head of a family and of good moral character, but on such terms and conditions as the board may prescribe. Said board of control shall be authorized, when in their judgment it may be deemed proper or expedient, to grant girls leave of absence in writing, with such conditions therein expressed as to them may be deemed proper, either for a limited period or during good behavior. In case of misconduct of said girl, or for any reasons deemed satisfactory to the board, they may reclaim said girl and return her to the Home and there retain her during the balance or any remaining portion of the time for which

she was originally sentenced to said Home, and without other trial, commitment or process of law. Any girl so granted leave of absence shall not be entitled to any hearing or trial before being returned to the institution, but shall continue to be an inmate of said Industrial Home, and subject to its control while thus out on parol the same as though she were confined within the institution. (How. 15454; C. L. 2213.)

REMOVAL OF CERTAIN GIRLS FROM THE INDUSTRIAL HOME TO OTHER INSTITUTIONS.

164. Upon the application of the board of control, the State Board of Corrections and Charities may cause any person committed and conveyed to the State Industrial Home for Girls who shall not be deemed entitled to admission thereto by the said board of control thereof, and any person committed to said institution who shall be deemed by said board of control incorrigible or an improper person to remain in said institution, to be removed with the mittimus committing such person thereto to any State, penal or reformatory institution to which such person might have been committed by the court or magistrate committing such person to the Industrial Home, there to remain until the expiration of the term of sentence stated in the mittimus. (How. 15455; P. A. 235, 1909.)

AIDING INMATES OF THE INDUSTRIAL HOME TO ESCAPE, OR TO LEAVE THE STATE, OR MARRYING SUCH INMATES, A PENAL OFFENSE.

165. Any person who shall aid or assist any girl who is an inmate of the Industrial Home for Girls to escape therefrom, or who shall aid or assist any girl who has been committed to said institution and who is a subject thereof to escape from any other home or other place where she has been placed by the officers of said Industrial Home, or shall aid or assist any such girl to leave this State, or shall marry any such girl, knowing her to be an inmate or a subject of such Industrial Home, without the consent of the board of control of such Industrial Home, shall be punished by imprisonment in the State prison, or State House of Correction, for a term of not to exceed two years, or in the county jail for a term not to exceed one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment in the discretion of the court. (How. 15458; C. L. 2216.)

RECORD OF INMATES OF INDUSTRIAL HOME.

166. It is the duty of the board of control to provide a book in which shall be registered the names, age, and professed religion of girls received in said Industrial Home, the date of their reception and of their leaving, the names and residence of their parents, and whether such girls were apprenticed, placed in a family, or otherwise, and if placed in a family or apprenticed, the name, residence and occupation of the head of such family, or person to whom such girls are apprenticed. (How. 15456; C. L. 2215.)

AGENT FOR THE STATE INDUSTRIAL HOME FOR GIRLS—DUTIES.

167. The board of control shall have authority to designate some officer, teacher or other employe of said Industrial Home to be the agent

thereof, who shall be known as the Agent for the State Industrial Home for Girls and shall act in that capacity during the pleasure of the board. His duty shall include the placing and return of wards of the said Industrial Home who may be paroled, indentured, contracted or otherwise placed in families, and the visitation of wards who may be out in homes or upon parole at such time as the board may direct, the investigation of applications for girls from said Industrial Home, and the finding of suitable places for such girls. (How. 15459; C. L. 2217.)

SEPARATE STATION HOUSES OR DEPARTMENTS FOR WOMEN PRISONERS.

WHAT CITIES MUST PROVIDE SEPARATE STATION HOUSES OR DEPARTMENTS FOR WOMEN.

168. The board of aldermen in every city of ten thousand inhabitants or more, or, in cities having a police commission, the police commission, shall designate one or more station houses or a separate department in any such station house or county jail within their respective cities for the detention of all women and children under arrest, and may change such designated station house or separate department thereof; but at least one station house or separate department thereof shall always remain so designated in such city. (How. 6294; C. L. 3491.)

APPOINTMENT OF WOMEN AS POLICE MATRONS—RESIDENCE.

169. The mayor in any city where any such station house is designated, or the sheriff in counties where the prisoners of the county seat as a city are confined in the county jail, shall appoint for each station house so designated one or more respectable women, none of whom shall be under twenty-five years of age, who shall be known as police matrons, and who shall not be appointed for any definite term but shall hold office until removed. In cities having a board of police commissioners, such appointments shall be made by such board or the sheriff of the county where prisoners of the county seat as a city are confined in the county jail.

Every police matron within the city of Detroit shall, during her hours of service, remain constantly on duty at the station at which she serves, and every police matron in each of the other cities shall reside at or near the station to which she is attached and shall hold herself in readiness to answer any call therefrom during her hours of service so long as any woman remains confined therein. (How. 6295; C. L. 3492.)

DUTIES OF POLICE MATRONS—AUTHORITY.

170. Subject only to the general control of the authorities in charge, the police matron shall have the entire care of all women and children held under arrest at such station or department, and may call upon any police officer in such station for assistance. In case sufficient and proper accommodation shall not be provided for women confined under arrest, such matron shall notify the authorities in charge, who shall provide such sufficient and proper accommodations. In case a woman is arrested and taken to a police station to which a matron is attached, if such matron be not then present, the officer in charge shall cause such woman prisoner to be removed as soon as possible to the nearest station house

to which a police matron is attached. At least one police matron shall be designated by the authorities in charge of said police station to attend before the police or other criminal courts at all times when any woman is to be arraigned before such court, and shall, in conjunction with some police officer, have charge of all women there in attendance awaiting trial or transfer from the court to any other place of detention. (How. 6296-9; C. L. 3493-6.)

CHAPTER XVI.

CRIMINAL OFFENSES BY AND AGAINST WOMEN AND GIRLS.

RAPE—STATUTORY RAPE.

171. If any person shall ravish and carnally know any female of sixteen years or more, by force and against her will, or shall unlawfully and carnally know and abuse any female under the full age of sixteen years, he shall be punished by imprisonment in the State prison for life, or for such period as the court in its discretion shall direct. (How. 14542; C. L. 11489.)

ASSAULT WITH INTENT TO COMMIT RAPE.

172. If any person shall assault any female with intent to commit the crime of rape, he shall be deemed a felonious assaulter, and shall be punished by imprisonment in the state prison not more than ten years, or by fine not exceeding one thousand dollars. But an actual assault or actual violence is essential; mere solicitations for intercourse will not suffice. (How. 14543; C. L. 11490; *People v. Dowell*, 136 Mich. 306.)

FELONIOUS ASSAULT—GIRL UNDER FOURTEEN YEARS.

173. If any male person or persons over the age of fourteen years shall assault a female child under the age of fourteen years, and shall take indecent and improper liberties with the person of such child, without committing or intending to commit the crime of rape upon such child, he shall be deemed a felonious assaulter, and upon conviction thereof shall be punished by imprisonment in the state prison not more than ten years, or by fine not exceeding one thousand dollars, or both such fine and imprisonment in the discretion of the court; and the indictment or information charging any person with rape or attempt to commit a rape upon any female under the age of fourteen years may also contain a count charging felonious assault, the jury being authorized to convict of either offense. (How. 14817-8; C. L. 11719-20.)

CARNAL KNOWLEDGE OF PATIENTS OF CERTAIN STATE AND COUNTY INSTITUTIONS.

174. Any person who shall ravish or carnally know and abuse any female who is a patient in any state or county institution for the care of insane, feeble-minded or epileptic persons, shall be guilty of a felony.

and shall be punished by imprisonment in the state prison not more than fifteen years nor less than five years. (How. 14814; P. A. 263, 1911.)

INTERCOURSE INDUCED BY REPRESENTATIONS MADE BY ANY PERSON GIVING
MEDICAL TREATMENT TO ANY WOMAN OR GIRL.

175. If any person shall undertake to medically treat any female person, and while so treating her, shall represent to such female that it is, or will be, necessary or beneficial to her health that she have sexual intercourse with a man, and shall thereby induce her to have carnal sexual intercourse with any man, or if any man, not being the husband of such female, shall have sexual intercourse with her by reason of such representations, the person or persons so offending shall, on conviction thereof, be punished by imprisonment in the state prison for any term of years not exceeding ten years. (How. 14822; C. L. 11721.)

ABDUCTION AND ENFORCED MARRIAGE OR DEFILEMENT.

176. If any person shall take any woman unlawfully and against her will, and by force, menace or duress, compel her to marry him or any other person, or to be defiled, he shall be punished by imprisonment in the state prison for life, or any term of years. (How. 14544; C. L. 11491.)

ABDUCTION WITH INTENT TO FORCE MARRIAGE OR TO DEFILE.

177. If any person shall take any woman unlawfully and against her will, with intent to compel her by force, menace or duress, to marry him or any other person, or to be defiled, he shall be punished by imprisonment in the state prison not more than ten years. (How. 14545; C. L. 11492.)

See also section 197, *infra*.

ENTICING OR TAKING AWAY FEMALE UNDER SIXTEEN YEARS OF AGE FOR
PURPOSE OF MARRIAGE OR PROSTITUTION.

178. Every person who shall take or entice away any female under the age of sixteen years, from her father, mother, guardian, or other person having the legal charge of her person, without their consent, either for the purpose of prostitution, concubinage, or marriage, shall be punished by imprisonment in the state prison not exceeding three years, or by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars. (How. 14546; C. L. 11493.)

ABORTION OR ATTEMPTED ABORTION—DEATH OF MOTHER—DEATH OF CHILD.

179. The willful killing of an unborn quick child by any injury to the mother of such child, which would be murder if it resulted in the death of such mother, shall be deemed manslaughter. Every person who shall administer to any woman pregnant with a quick child, any medicine, drug or substance whatever, or shall use or employ any instrument or other means, with intent thereby to destroy such child, unless the same shall have been necessary to preserve the life of such mother or shall have been advised by two physicians to be necessary for such purpose, shall, in case the death of such child or of such mother be

thereby produced, be deemed guilty of manslaughter, or, if the death of such child or of such mother does not result, shall upon conviction be punished by imprisonment in the county jail not more than one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment. (How. 14554-6; C. L. 11501-3.)

CONCEALMENT OF DEATH OF ANY ISSUE WHICH, IF BORN ALIVE, WOULD HAVE
HAVE BEEN A BASTARD.

180. If any woman shall conceal the death of any issue of her body, which, if born alive, would be a bastard, so that it may not be known whether such issue was born alive or not, or whether it was not murdered, she shall be punished by fine not exceeding one hundred dollars, or imprisonment in the county jail not more than one year. Any woman indicted for the murder of her infant bastard child may also be charged in the same indictment with the offense herein described; and if, on the trial, the jury shall acquit her of the crime of murder and find her guilty of the other offense, judgment and sentence may be awarded against her for the same. (How. 14780-1; C. L. 11695-6.)

ADULTERY—WITHIN WHAT TIME AND BY WHOM COMPLAINT MUST BE MADE.

181. Every person who shall commit adultery shall be punished by imprisonment in the state prison not more than three years, or by a fine not exceeding five hundred dollars, or imprisonment in the county jail not more than one year; and when the crime is committed between a married woman and a man who is unmarried, the man shall be deemed guilty of adultery, and liable to the same punishment. However, no prosecution for adultery shall be commenced except upon the complaint of the husband or wife made within one year from the time of committing the offense. (How. 14773-5; C. L. 11688-90.)

LEWD AND LASCIVIOUS COHABITATION—INDECENT EXPOSURE, ETC.

182. If any man and woman, not being married to each other, shall lewdly and lasciviously associate and cohabit together, or if any man or woman, married or unmarried, shall be guilty of open and gross lewdness and lascivious behavior, or shall designedly make any open and indecent or obscene exposure of his or her person, or of the person of another, every such person shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred dollars. Lewd and lascivious cohabitation is a joint offense, and both man and the woman must be guilty or neither, and both must be joined in the same information. Prosecution must be commenced within one year after the time of committing the offense. (How. 14778; C. L. 11693; *Delany v. People*, 10 Mich. 241.)

INCEST.

183. All persons being within the degree of consanguinity within which marriages are prohibited, or declared by law to be incestuous and void (see section 18, *supra*), who shall intermarry with each other, or who shall commit adultery or fornication with each other, shall be punished by imprisonment in the state prison not more than fifteen

years, or in the county jail not more than one year. (How. 14789; C. L. 11704.)

POLYGAMY.

184. If any person who has a former husband or wife living shall marry another person, or shall continue to cohabit with such second husband or wife, in this state, he or she shall, except in the cases hereinafter mentioned, be deemed guilty of the crime of polygamy, and shall be punished by imprisonment in the state prison not more than five years, or in the county jail not more than one year, or by fine not exceeding five hundred dollars. The provisions of this section do not extend to any person whose husband or wife shall have been continually remaining beyond sea, or shall have voluntarily withdrawn from the other and remained absent for the space of five years together, the party marrying again not knowing the other to be living within that time, nor to any person who shall have good reason to believe such husband or wife to be dead, nor to any person who has been legally divorced from the bonds of matrimony. (How. 14776-7; C. L. 11691-2.)

SOLICITING TO A POLYGAMOUS LIFE OR TEACHING POLYGAMY.

185. Whoever shall solicit to a polygamous life, or teach polygamy as a correct form of family life, for the purpose of inducing men and women to enter into the practice of polygamy or advocate the doctrine and practice of polygamy, or attempt to persuade any person by private or public discourse to adopt a polygamous life, shall be guilty of a felony and shall, upon conviction, be punished by imprisonment in the State House of Correction and Reformatory at Ionia, or the State House of Correction and branch of the State prison at Marquette, for a term of not less than two nor more than ten years, in the discretion of the court. (How. 14845-6; P. A. 249, 1899.)

SEDUCTION.

186. If any man shall seduce or debauch any unmarried woman, he shall be punished by imprisonment in the state prison not more than five years, or by imprisonment in the county jail not more than one year, or by fine not exceeding one thousand dollars; but no prosecution shall be commenced after one year from the time of committing the offense. The offense consists in enticing an unmarried woman, by means of inducements and promises of marriage held out at the time, to depart from the path of virtue and yield to sexual intercourse to which, without such promises and inducements, she would not have consented; but intercourse induced on a promise to marry prosecutrix if she became pregnant is not seduction. (How. 14779; C. L. 11694; *People v. Gibbs*, 70 Mich. 425; *People v. Smith*, 132 Mich. 58.)

SEDUCTION—CIVIL ACTION FOR DAMAGES—WHO MAY BRING.

187. A female seduced has the right to recover damages for the injury she has sustained thereby. If she be of age, she may bring the action in her own name; but if she be a minor at the time, the action may be brought by her father, mother, or guardian. Any person entitled

to the services of the person seduced may maintain an action for the loss of service or other damage sustained by him in consequence of the seduction. (How. 13132-4; C. L. 10418-20.)

OBSCENE LANGUAGE IN THE PRESENCE OR HEARING OF ANY WOMAN OR CHILD.

188. It shall be unlawful for any person or persons to use any indecent, immoral, obscene, vulgar or insulting language in the presence or hearing of any woman or child within the limits of any township, village or city in the state of Michigan. Upon conviction of such offense, the court may impose a fine of not more than one hundred dollars or imprisonment in the county jail not exceeding ninety days, and, in case of nonpayment of such fine when imposed, the court trying the same may make a further sentence that the offender be imprisoned in the county jail for a definite period not exceeding ninety days, unless said fine be sooner paid. (How. 14843-4; C. L. 11737-8.)

DEBAUCHING BOYS UNDER THE AGE OF FIFTEEN YEARS.

189. Any female person over the age of fifteen years who shall knowingly and wilfully debauch the person or deprave the morals of any boy under the age of fifteen years, either by lewdly inducing or enticing any such boy to carnally know any such female person, or by indecent bodily contact with the person of any such boy communicating to him any venereal or other loathsome disease, shall be deemed guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment in the state prison for not more than five years, in the discretion of the court. (How. 14820; C. L. 11722.)

DESERTION—AFTER MARRIAGE TO ESCAPE PROSECUTION FOR CERTAIN OFFENSES.

190. Every man or boy who shall marry any woman or girl for the purpose of escaping prosecution for rape, bastardy or seduction, and shall afterwards desert her without good cause, shall be deemed guilty of a felony, and shall, upon conviction, be fined not more than one thousand dollars or be imprisoned in the state prison for not more than three years; but no prosecution may be brought under this provision after five years from the date of marriage. In all prosecutions under this act, the wife may testify against her husband without his consent. (P. A. 310, 1913.)

DESERTION—OF WIFE OR MINOR CHILDREN UNDER FIFTEEN YEARS OF AGE WITHOUT NECESSARY PROVISION FOR FOOD, CLOTHING AND SHELTER.

191. Any person who deserts and abandons his wife or deserts and abandons his minor children under fifteen years of age and without providing necessary and proper shelter, food, care and clothing for them, shall upon conviction be deemed guilty of a felony and punished by imprisonment in the state prison for not more than three years nor less than one year; or by imprisonment in the county jail not more than one year and not less than three months. The court may suspend such sentence if the defendant shall enter into a bond to the people of the State of Michigan, in such penal sum and with such surety or sureties as the court may fix, conditioned that he will furnish his wife and children

with necessary and proper shelter, food, care and clothing. In case of failure to comply with the conditions of such bond, the court may order such person to appear before the court and show cause why sentence should not be imposed, whereupon the court may pass sentence or may modify the order and take a new bond and further suspend sentence as may be just and proper. (How. 11539; P. A. 144, 1907.)

PROVISION FOR MAINTENANCE OF SUCH WIFE OR CHILDREN IN CASE OF CONVICTION UNDER THE FOREGOING SECTION.

192. In case of the conviction of any person under the preceding section and sentence to a term of imprisonment either in one of the state prisons, or in the Detroit House of Correction, the warden of the prison or the superintendent of said House of Correction in which said person shall be confined, shall, at the end of each and every week during the period of said term of imprisonment, pay over to any of the superintendents of the poor of the city or county in which the wife or children of such person reside, the sum of one dollar and fifty cents per week, if there be only a wife, and fifty cents per week additional for each minor child under the age of fifteen years, in lieu of any earnings of such person while an inmate therein. Said sums shall be expended by said superintendents of the poor for the care and support of the wife and children of said person; and it shall be the duty of the superintendents of the poor of the city or county from which such person shall be committed to furnish the warden of the prison or the superintendent of said House of Correction in which said person is confined with a sworn statement, showing the names of the wife and children who are left dependent upon the city or county for support, their ages, and the relation they bear to such convicted person. In all hearings of complaints under this act, the wife may testify against the husband without his consent, and such complaints may be made by the superintendents of the poor of the city or county, or the county agent of the State Board of Corrections and Charities for the county wherein the wife or minor children of the person complained of reside. (How. 11540-2; P. A. 144, 1907.)

See also sections 152 to 156, supra.

TRUANTS AND DISORDERLY GIRLS.

193. Any girl between the age of ten and sixteen years who shall frequent or be found lounging about saloons, disreputable places, houses of ill-fame, or who shall be an inmate or resident or a member of a family who reside in any house of ill-fame or conduct any other disreputable place, or who shall frequent other rooms or places where dissolute and disreputable people congregate or where intoxicating liquors are kept for sale, or who shall, against the command of her parents or guardian, run away or wilfully absent herself from the school she is attending or from any house, office, shop, firm or other place where she is residing or legitimately employed with labor, or who shall against such command of her parents or guardian or for any immoral, disorderly or dishonest purposes be found lounging upon the public streets, highways or other public resorts or at places of amusement of dissolute or improper character, or who shall against any such command or for

any such disorderly or dishonest purposes attend any public dance, skating rink, or show, shall be deemed guilty as a truant or disorderly child. Upon arrest and conviction, such minor girl may be sentenced by a justice of the peace, police justice or criminal magistrate to the Industrial Home for Girls at Adrian until twenty-one years of age, unless sooner discharged according to law: *Provided*, That no girl shall be sent to the said Industrial Home for Girls until the sentence therein has been submitted to and approved by one of the judges of the Recorder's Court of the city of Detroit, or the judge of the Superior Court of the City of Grand Rapids, or by a circuit judge or a probate judge of the county in which such conviction shall be had. (How. 14832-3; C. L. 11765-6.)

KEEPING HOUSE OF ILL-FAME OR INDUCING WOMAN TO ENTER, ETC., FOR
PURPOSE OF PROSTITUTION.

194. Every person who shall keep a house of ill-fame, resorted to for the purpose of prostitution or lewdness, and every person who shall solicit, or in any manner induce a female to enter such house for the purpose of becoming a prostitute, or shall by force, fraud, deceit, or in any like manner procure a female to enter such house for the purpose of prostitution or of becoming a prostitute, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison not more than five years, or in the county jail not more than one year, or by fine not exceeding one thousand dollars, or by both such fine and imprisonment, in the discretion of the court. (How. 14782; C. L. 11697.)

See section 197, *infra*, which largely supersedes section 194.

LETTING HOUSE, KNOWING THAT IT IS TO BE USED FOR PURPOSE OF PROSTITU-
TION AND LEWDNESS, ETC.

195. If any person shall let any dwelling-house, knowing that the lessee intends to use it as a house of ill-fame or place of resort for the purpose of prostitution and lewdness, or for the purpose of gambling for money or other property, or shall knowingly permit such lessee to use the same for such purpose, or shall receive any rent for any dwelling house, room or apartment which is used for such purposes, having reasonable cause to believe such house, room, or apartment is used for any such purpose, he shall be punished by fine not exceeding three hundred dollars, or imprisonment in the county jail not more than six months; but no person shall be liable for receiving rent as aforesaid for any period prior to the time when he shall have reasonable cause to believe that such house, room, or apartment is used for any such purpose. (How. 14784; C. L. 11699.)

See also section 203, *infra*.

CONVEYING TO OR EMPLOYING IN HOUSE OF ILL-FAME, FEMALE OF
SEVENTEEN OR UNDER.

196. It shall be unlawful for any person or persons, for any purpose whatever, to take or convey to, or to employ, receive, detain or suffer to remain in any house of prostitution, house of ill-fame, bawdy-house, house of assignation, or in any house or place for the resort of prosti-

tutes or other disorderly persons, any female of the age of seventeen years or under. Any person violating the provisions of this section shall be subject to a fine of not more than one hundred dollars or imprisonment in the county jail not exceeding ninety days, and, in case of non-payment of such fine when imposed, the court may make a further sentence that the offender be imprisoned in the county jail for a definite period of time not exceeding ninety days unless said fine shall be sooner paid. (How. 14824-5; C. L. 11725-6.)

PANDERING.

197. Any person who shall procure a female inmate for a house of prostitution; or who shall induce, persuade, encourage, inveigle or entice a female person to become a prostitute; or who by promises, threats, violence or by any device or scheme, shall cause, induce, persuade, encourage, take, place, harbor, inveigle or entice a female to become an inmate of a house of prostitution or assignation place, or any place where prostitution is practiced, encouraged or allowed; or any person who shall, by promises, threats, violence, or by any device or scheme, cause, induce, persuade, encourage, inveigle or entice an inmate of a house of prostitution or place of assignation to remain therein as such inmate; or any person who by promises, threats, violence, by any device or scheme, by fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, or having legal charge, shall take, place, harbor, inveigle, entice, persuade, encourage or procure any female person to enter any place within this state in which prostitution is practiced, encouraged or allowed, for the purpose of prostitution, or to inveigle, entice, persuade, encourage or procure any female person to come into this state or to leave this state for the purpose of prostitution; or who takes or detains a female with the intent to compel her by force, threats, menace or duress to marry him or to marry any other person or to be defiled; or upon the pretense of marriage takes or detains a female person for the purpose of sexual intercourse; or who shall receive or give, or agree to receive or give, any money or thing of value for procuring or attempting to procure any female person to become a prostitute or to come into this state or leave this state for the purpose of prostitution, shall be guilty of pandering, and upon conviction shall be punished by imprisonment for a term not more than thirty years. (How. 14835; Sec. 1, P. A. 63, 1911.)

See also sections 176, 177, 178, 194, and 196, *supra*, superseded in all or in part by this section.

PLACING OR LEAVING, OR PROCURING ANOTHER TO PLACE OR LEAVE HIS WIFE IN A HOUSE OF PROSTITUTION OR TO PRACTICE PROSTITUTION.

198. Any person who by force, fraud, intimidation or threat places or leaves, or procures any other person or persons to place or leave his wife in a house of prostitution or to lead a life of prostitution shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment for a term not more than twenty years. (How. 14836; Sec. 2, P. A. 63, 1911.)

RECEIVING, OR SHARING IN, PROCEEDS OF PROSTITUTION.

199. Any person who shall knowingly accept, receive, levy or appropriate any money or other valuable thing without consideration from the proceeds of the earnings of any woman engaged in prostitution, or any person, knowing a female to be a prostitute, who shall live or derive support or maintenance, in whole or in part, from the earnings or proceeds of the prostitution of said prostitute, or from moneys loaned or advanced to or charged against her by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, shall be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment for a term of not more than twenty years. Any such acceptance, receipt, levy or appropriation of such money or valuable thing shall, upon any proceeding or trial for violation of this section, be presumptive evidence of lack of consideration. (How. 14837 and Sec. 3, P. A. 63, 1911, as amended by P. A. 284, 1913.)

DETAINING INMATE OF HOUSE OF PROSTITUTION, ETC., FOR DEBT.

200. Any person or persons who attempt to detain any female person in a disorderly house or house of prostitution because of any debt or debts she has contracted, or is said to have contracted while living in said house, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment for a term not less than two nor more than twenty years. (How. 14838; Sec. 4, P. A. 63, 1911.)

TRANSPORTING FEMALE FOR PROSTITUTION.

201. Any person who shall knowingly transport or cause to be transported, or aid or assist in obtaining transportation for, by any means of conveyance, into, through or across this state, any female person for the purpose of prostitution or with the intent and purpose to induce, entice, or compel such female person to become a prostitute, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment for a term not more than twenty years; any person who may commit the crime in this section mentioned may be prosecuted, indicted, tried and convicted in any county or city in or through which he shall so transport or attempt to transport any female person as aforesaid. (How. 14839; Sec. 5, P. A. 63, 1911.)

ACTS COMMITTED PARTLY OUTSIDE THIS STATE—WITNESSES.

202. In case any part of an act or acts for which prosecution is instituted under the provisions of sections 197 to 201, supra, shall have been committed outside this state, the offense shall be deemed and alleged to have been committed, and the offender tried and punished, in any county in which the prostitution was intended to be practiced or in which the offense was consummated, or any overt act in furtherance of the offense shall have been committed; and any female person referred to in said sections shall be a competent witness in any prosecution under said sections to testify for or against the accused as to any transaction or as to any conversation with the accused or by him with another person or persons in her presence, notwithstanding her having married the accused before or after the violation of any of the provi-

sions of such sections, whether called as a witness during the existence of the marriage or after its dissolution. (How. 14840-1; Sec. 6-7, P. A. 63, 1911.)

HOUSES OF ILL-FAME DECLARED NUISANCES.

203. Whoever shall conduct, maintain, own or lease any building or place used for the purpose of lewdness, assignation or prostitution is guilty of a nuisance, and the building or place in or upon which such lewdness, assignation or prostitution is conducted, permitted or carried on, and the furniture, fixtures, and contents are also declared a nuisance and shall be enjoined and abated as hereinafter provided. (Sec. 1, P. A. 272, 1915.)

SAME; PROSECUTION FOR ABATEMENT OF SUCH NUISANCE, HOW INSTITUTED, BY WHOM—INJUNCTION.

204. Whenever a nuisance is kept, maintained or exists, as defined in the preceding section, the prosecuting attorney or any citizen of the county may maintain an action in chancery in the name of the State of Michigan, upon the relation of such prosecuting attorney or citizen, to perpetually enjoin said nuisance, the person or persons conducting or maintaining the same, and the owner or agent of the building or place where said nuisance exists. The court may substitute the prosecuting attorney for the complaining party and direct him to prosecute said action to judgment, but if such action is brought by a citizen other than the prosecuting attorney without reasonable ground or cause for said action, the costs may be taxed to such citizen. For a violation of such injunction so issued, the offender may be punished as for contempt and punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail not more than six months, or by both fine and imprisonment in the discretion of the court. (Secs. 2, 3, 4, P. A. 272, 1915.)

SAME; PENALTY IF EXISTENCE OF SUCH NUISANCE BE ESTABLISHED.

205. If the existence of the nuisance be established in such action as is provided for by the foregoing section, an order of abatement shall be entered as a part of the judgment in the case directing the removal from the place or building of all furniture or contents used in conducting the nuisance, and ordering the sale thereof in the manner provided for the sale of chattels under execution, and the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of one year, unless sooner released by the court making said order. Any person found guilty of maintaining a nuisance under this act shall forfeit the benefit of all property exemptions so far as the satisfaction of the order, decree or writ of said court requires the same. The proceeds of the sale of the personal property as herein provided shall be applied in payment of the costs of the action and the abatement, and the balance, if any, shall be paid to the defendant. (Sec. 5, 6, P. A. 272, 1915.)

SAME; UPON PAYMENT OF COSTS AND FILING OF BOND BY THE OWNER OF BUILDING, ACTION MAY BE ABATED AS TO THE BUILDING ONLY.

206. If the owner of such building or place pays all the costs of the proceeding, and files a bond with sureties approved by the circuit judge in the full value of the property, conditioned that he will immediately abate said nuisance and prevent the same from being established or kept therein for a period of one year thereafter, the court may order such premises to be delivered to said owner and said order of abatement cancelled so far as the same may relate to said property; and if said bond be given and costs therein paid before judgment and order of abatement, the action shall be thereby abated as to said building only. The court having jurisdiction of any proceedings under sections 203 to 206 may make such further and other order in the premises as may be agreeable to equity and not inconsistent with the provisions of said sections. (Sec. 7, 8, P. A. 272, 1915.)

CHAPTER XVII.

EMPLOYMENT OF WOMEN AND CHILDREN IN CERTAIN CASES.

POWER OF LEGISLATURE TO REGULATE BY STATUTE.

207. The legislature shall have power to enact laws relative to the hours and conditions under which women and children may be employed. (Art. V. Sec. 29, Const.)

HOURS OF LABOR.

208. No male under the age of eighteen years, and no female, shall be employed in any factory, mill, warehouse, workshop, clothing, dress-making or millinery establishment, or any place where the manufacture of any kind of goods is carried on, or where any goods are prepared for manufacturing, or in any laundry, store, shop, or any other mercantile establishment, or in any office or restaurant, for a period longer than an average of nine hours a day or fifty-four hours in any week or more than ten hours in any one day; and all such establishments shall keep posted a copy of this section, printed in large type, in a conspicuous place; in establishments having a time clock, such copy shall be posted near the time clock: *Provided, however,* That the provision of this section in relation to the hours of employment shall not apply to nor affect any person engaged in preserving perishable goods in fruit and vegetable canning establishments. No female under the age of eighteen years shall be employed in any manufacturing establishment between the hours of six o'clock p. m. and six o'clock a. m. No child under the age of sixteen years shall be employed in any manufacturing establishment or work shop, mine or messenger service, in this state between the hours of six o'clock p. m. and six o'clock a. m. No child under the age of eighteen years shall be employed between the

hours of ten o'clock p. m. and five o'clock a. m. in the transmission, distribution or delivery of messages or merchandise. (P. A. 255, 1915.)

CHILDREN, EMPLOYMENT OF—PROHIBITED IN CERTAIN CASES—NO CHILD UNDER SIXTEEN YEARS OF AGE TO BE EMPLOYED WITHOUT PERMIT—HOW PERMIT ISSUED, ETC.

209. No child under the age of twenty-one years shall be employed, permitted or suffered to work in any theater, concert hall or place of amusement where intoxicating liquors are sold. No child under fifteen years of age shall be employed, permitted or suffered to work in, or in connection with, any mercantile institution, store, office, hotel, laundry, manufacturing establishment, mine, bowling alley, billiard or pool room conducted for profit, theater, passenger or freight elevator, factory or workshop, telegraph or messenger service within this state: *Provided*, That this section shall not apply to any child of the age of fourteen years or over, working during the established vacation period in preserving perishable goods in fruit or vegetable canning establishments. It shall be the duty of every mercantile institution, store, office, hotel, laundry, manufacturing establishment, mine, bowling alley, workshop, telegraph or messenger service, or any person coming under the provisions of this act, to keep a register in which will be recorded the name, birthplace, age and place of residence of every person employed under the age of sixteen years, and it shall be unlawful for any such establishment or person to hire or employ, or permit to be hired or employed or suffered to work, any child under the age of sixteen years without there is first provided and placed on file in the business office thereof a permit issued by the superintendent of schools of the school district in which such child resides, or some one duly authorized by him in writing, or, where there is no superintendent of schools, by the county commissioner of schools, or some one duly authorized by him in writing, any of whom shall have power to administer oaths in relation thereto. Such permit shall be returned immediately to the issuing officer when such child leaves such employment; every limited vacation permit, hereinafter to be described, shall, upon its expiration, be void and of no effect. The said register and permit shall be produced for inspection on demand of any factory inspector appointed under this act. No fee shall be charged for such permit or other record required by this act by any officer by whom it shall be issued. Every employer complying with the provisions of this section shall be at liberty to employ the person so presenting the permit hereinbefore referred to, and is justified in considering and treating such person as of the age shown in such permit and shall not be liable, if it transpire that such person is under the age represented in such permit, to any greater extent than such employer would be liable if such person were of the age represented. The person authorized and required to issue such permit shall not issue the same until he has received, examined, approved and filed the following papers, duly executed:

A. The school report of said child properly filled out and signed as hereinafter provided (except summer vacation permits).

B. Passport or duly attested transcript of record of birth.

C. If "B" is not produced, a statement from a physician connected officially with the board or the department of health, certifying that in

his opinion such child is fifteen years of age or upwards, together with the weight and height of said child.

D. Statement by issuing officer that he has examined said child, that the child can read intelligently and write legibly simple sentences in English, that in his opinion the child is fifteen years of age or upwards, and has reached the normal development of a child of its age, and is in sound health and physically able to perform the work which it intends to do, and that in his opinion the services of the child are essential to the support of itself or its parents.

Every such permit shall be signed in the presence of the officer issuing the same by the child in whose name it is issued; and shall state the date and place of birth of the child, and describe the color of the hair and eyes, the height and weight and any distinguishing facial marks of such child, and that the required papers have been duly examined, approved and filed, and that the child named in such permit has appeared before the officer signing the same and has been examined. The school record shall be signed by the principal or chief executive officer of the school which such child has attended and shall be furnished on demand to a child entitled thereto. It shall contain a statement certifying that the child has regularly attended the public schools, or schools equivalent thereto, or parochial schools for not less than one hundred days during the school year previous to his arriving at the age of fifteen years or during the year previous to applying for such school record, and is able to read intelligently and write legibly simple sentences in the English language, and in the case of the public schools, has passed satisfactorily the work of the school up to and including the work of the sixth grade, or in the case of schools other than public, the equivalent thereto. Such school record shall also give the age and residence of the child as shown on the records of the school and the name of its parents or guardians or custodian: *Provided*, That in the case of limited vacation permits the school record and all other requirements relating to educational qualifications shall be waived, but all other requirements shall be complied with as prescribed in this section. Every month after the issuance of a permit the child shall report to the person who issued same, either in person or in writing, through its parent or guardian, stating that the child is employed, giving the name of employer and the location of the place of employment, and if not employed, said child shall be compelled to attend school. (P. A. 255, 1915.)

EMPLOYMENT OF CHILDREN AT CERTAIN WORK PROHIBITED—AGE CERTIFICATES,
BY WHOM ISSUED, WHAT TO CONTAIN—CHILDREN IN THEATRICAL COMPANIES EXEMPT FROM THESE PROVISIONS.

210. No female under the age of twenty-one years, and no male under the age of eighteen years, shall be allowed to clean machinery while in motion, nor be employed in or about any distillery, brewery or any other establishment where malt or alcoholic liquors are manufactured, packed, wrapped or bottled, nor in any hazardous employment, nor where their health may be injured or morals depraved, nor shall females be unnecessarily required in any employment to remain standing constantly. No child under the age of sixteen years shall be employed in or about any theater, variety show, moving picture show, burlesque show, or other kind of playhouse, music or dance hall, pool room or billiard room;

Provided, however, That any male person over sixteen and under eighteen years of age may be employed in any occupation, other than the cleaning of machinery while in motion and occupations in or about any distillery, brewery or other establishment where malt or alcoholic liquors are manufactured, packed, wrapped or bottled, subject to the following conditions:

Such employment shall be for a total of not more than fifty-four hours in any week, nor more than ten hours in any one day.

The occupation in which such person is employed shall be approved by the Department of Labor, as not being injurious to health or morals, or unduly hazardous; *Provided,* That in all cities in which the Department of Labor maintains a permanent office, the official in charge thereof shall be authorized and required, under the direction of the Commissioner of Labor, and in other cities or municipalities the superintendent of schools shall likewise be authorized and required to issue, upon demand, certificates of age to young persons past the age of sixteen years after he has received, examined, approved and filed the following papers, duly executed:

A. Passport or duly attested, official or religious, record of birth:

B. Statement of physician as to age, in his opinion, if "A" is not furnished: also statement as to weight and height.

C. Certificate by the issuing officer of examination, statement in certificate giving date and place of birth of said person, and color of the hair and eyes, height, weight, and any distinguishing facial marks; that the required papers were received, examined, approved and filed, and that the person has appeared and been examined.

Every employer complying with the provisions of this section shall be at liberty to employ the person so presenting the certificate referred to, and shall not be liable, if it transpire that such person is under the age represented in such certificate, to any greater extent than if such person were of the age represented.

This act shall not be construed so as to prevent children under sixteen years of age from being employed by traveling theatrical companies whose employment consists of acting a part in the productions of such company. (P. A. 255, 1915.)

HAND RAILS ON STAIRWAYS—STAIRWAYS TO BE SCREENED WHERE FEMALES EMPLOYED, ETC.

211. Stairways with substantial hand rails shall be provided in manufacturing establishments, and where in the opinion of the factory inspector it be necessary, the steps of such stairs in all such establishments shall be substantially covered with rubber securely fastened thereon, for the better safety of persons employed in said establishments. The stairs shall be properly screened at sides and bottom where females are employed, and, where practicable, the doors of such establishments shall swing outwardly or slide, as ordered by said factory inspector, and shall be neither locked, bolted nor fastened during working hours. (How. 4022; Sec. 14, P. A. 285, 1909.)

WASH AND DRESSING ROOMS, CLOSETS, SLEEPING QUARTERS IN HOTELS, ETC.,
AND RAILWAY CARS USED AS QUARTERS FOR CONSTRUCTION CREWS.

212. Every manufacturing establishment, workshop, hotel or store in which five or more persons are employed, and every institution in which two or more children, young persons or women are employed, shall be supplied with proper wash and dressing rooms, and kept in a cleanly state and free from effluvia arising from any drain, privy or other nuisance, and shall be provided, within reasonable access, with a sufficient number of proper water closets, earth closets or privies for the reasonable use of persons employed therein, at least one of such closets for each twenty-five persons employed; and whenever two or more persons and one or more female persons are employed as aforesaid, a sufficient number of separate and distinct water closets, earth closets or privies shall be provided for the use of each sex, and plainly so designated, and no person shall be allowed to use any such closet or privy assigned to persons of the other sex. In all hotels where sleeping rooms are provided for female help, such rooms shall have proper heat and ventilation. Where railway cars are used for sleeping or living purposes, or where other premises for sleeping or living accommodations are furnished, by any employer or his agent, for men or women engaged in construction of railroad or other work, such cars or other premises shall be maintained in a cleanly and sanitary condition and kept sufficiently heated and well lighted and ventilated, and a separate place and facilities shall also be provided for the purpose of drying clothes. Any firm, person or corporation, or any agent or foreman thereof, or any contractor or other person who has control over such conditions may be prosecuted at the instance of the factory inspector or other proper authority when there occurs a violation of this section with respect to the conditions specified therein, over which such person, firm or corporation has control. It shall be unlawful for any employe to do anything to hinder or make difficult compliance with this section: *Provided*, That the provisions of this section shall not apply to railway sleeping cars used exclusively for the transportation and accommodation of passengers carried by such railways. (P. A. 3, 1915.)

FACTORY INSPECTORS, WHO ARE—AT LEAST TWO TO BE WOMEN.

213. The Commissioner of Labor shall be the chief factory inspector and the deputy commissioner of labor and deputy factory inspectors shall be factory inspectors in the meaning of this act. At least two of such deputy factory inspectors shall be women. (How. 4026; Sec. 18, P. A. 285, 1909.)

SWEAT-SHOPS—MANUFACTURE OF CLOTHING, ETC., IN TENEMENT OR DWELLING
—PERMIT—AIR-SPACE, ETC.

214. No room or apartment in any tenement or dwelling house shall be used for the manufacture of coats, vests, trousers, knee pants, overalls, skirts, dresses, cloaks, hats, caps, suspenders, jerseys, blouses, waists, waist-bands, underwear, neck-wear, furs, fur trimming, fur garments, shirts, hosiery, purses, feathers, artificial flowers, cigarettes or cigars, and no person, firm or corporation shall hire or employ any persons to work in any room, apartment or building or parts of buildings,

at making in whole or in part any of the articles mentioned, without first obtaining a written permit from the factory inspector or a deputy, stating the maximum number of persons allowed to be employed therein and that the building or part of building intended to be used for such work or business is thoroughly cleaned, sanitary and fit for occupancy for such work or business: *Provided*, That nothing in this section shall prevent the employment of a seamstress by any family for manufacturing articles for the use of such family. None of the work mentioned herein shall be done in any room or apartment used for living or sleeping purposes, or which is connected with the room or rooms used for such purposes, and which has not a separate and distinct outside entrance for use of others than members of the family dwelling therein. Not less than two hundred fifty cubic feet of air space shall be allowed for each person employed, and all work rooms shall be provided with sufficient means of light, heat and ventilation. (How. 4030; Sec. 22, P. A. 285, 1909.)

SEATS FOR FEMALE HELP—PENALTY FOR NEGLECT OR REFUSAL TO PROVIDE OR FOR PROHIBITING USE OF SUCH SEATS DURING LEISURE MOMENTS.

215. All persons who employ females in stores, shops, hotels, offices, warehouses, or manufactories, as clerks, assistants, operatives, or helpers in any business, trade or occupation carried on or operated by them, shall be required to procure and provide proper and suitable seats for all such females and shall permit the use of such seats, rests or stools as may be necessary, and shall not make any arbitrary rules, regulations or orders preventing the use of such stools or seats at reasonable times. No employer of female help shall neglect or refuse to provide seats as provided in this act, nor shall he make any rules, orders or regulations in shops, stores or other places of business requiring females to remain standing when not necessarily in service or labor therein. (How. 3905 and 4032; Sec. 5, P. A. 39, 1885, and Sec. 24, P. A. 285, 1909.)

EMPLOYMENT OF FEMALES, WHERE LIQUOR IS SOLD, IS PROHIBITED.

216. No person shall employ or permit any girl or woman to act as barkeeper, or to serve liquor, or to furnish music, or for dancing in any saloon or barroom where spirituous or intoxicating liquors, or malt, brewed or fermented liquors are sold or kept for sale. (How. 4033; Sec. 25, P. A. 285, 1909.)

PENALTY FOR VIOLATION OF PROVISIONS OF THIS CHAPTER.

217. Any person who violates or omits to comply with any of the foregoing provisions of this chapter, or who interferes in any manner with the factory inspector in the discharge of his duties, or who suffers or permits any child or female to be employed in violation of its provisions, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than ten nor more than one hundred dollars, or by imprisonment for not less than ten nor more than ninety days, or by both such fine and imprisonment in the discretion of the court. (How. 4062; Sec. 54, P. A. 285, 1909.)

CHAPTER XVIII.

PROTECTION FOR FEMALES IN OTHER CASES.

CARE OF FEMALE PATIENTS EN ROUTE TO AN INSANE ASYLUM OR THE MICHIGAN HOME FOR THE FEEBLE-MINDED AND EPILEPTIC.

218. Each female admitted to the Michigan Home for the Feeble-Minded and Epileptic, or to an asylum for the insane, shall be accompanied by a female attendant of reputable character and mature age, to be designated by the court, unless accompanied by her father, brother husband or son. Any person or officer who shall bring a female patient to the home or an asylum in violation of the provisions of this section, or who shall, under the provisions of law or otherwise, bring or accompany any patient to the home or an asylum and not in due time deliver such patient into the lawful care and custody of the proper officer of the home or an asylum, as the case may be, taking his receipt therefor if such patient be admitted, or who shall wilfully leave, abandon, neglect or abuse such patient, either in going to or returning from the home or an asylum, shall be deemed guilty of a misdemeanor. (How. 3680-3796; Sec. 40, P. A. 217, 1903; Sec. 29, P. A. 101, 1909.)

WOMEN PHYSICIANS IN STATE INSTITUTIONS.

219. In the following named institutions of this state at least one resident woman physician shall be employed, who, under the direction of the superintendent of such institution, shall render such women or girls who are inmates such medical treatment as shall from time to time be necessary: The Asylum for the Insane at Kalamazoo, the Asylum for the Insane at Traverse City, the Asylum for the Insane at Pontiac, the Asylum for the Insane at Newberry, the Home for the Feeble-Minded and Epileptic at Lapeer, and all institutions of like nature which may hereafter be established.

In the following institutions of this state, a woman physician shall be employed, who shall render to such women and girls who are inmates such medical treatment and services as may from time to time be necessary: The Industrial Home for Girls at Adrian, the School for the Deaf at Flint, the School for the Blind at Lansing, and all institutions of like nature which may hereafter be created. (How. 3887-8; P. A. 185, 1899, amended by P. A. 85, 1901.)

INTOXICATING LIQUORS; UNLAWFUL TO SELL WHEN FORBIDDEN IN WRITING BY WIFE, HUSBAND, ETC., OF PURCHASER.

220. It shall not be lawful for any person (except a druggist under certain conditions) to sell, furnish or give any spirituous, malt, brewed, fermented or vinous liquors, or any beverage, liquor, or liquids containing any spirituous, malt, brewed, fermented, or vinous liquor, to any minor, to any intoxicated person, nor to any person in the habit of getting intoxicated, nor to any Indian, nor any person of Indian descent,

nor to any person when forbidden in writing so to do by the husband, wife, parent, child, guardian or employer of such person, or by the supervisor of the township, mayor, director of the poor, or the superintendent of the poor of the county where such person shall reside or temporarily remain. The fact of selling, giving or furnishing any liquid in any place where intoxicating liquors are sold, or kept for sale, to any person when forbidden in writing so to do by the husband, wife, parent, child, guardian or employer of such person shall be prima facie evidence of an intent on the part of the person so selling, giving or furnishing such liquid, to violate the law. A saloon keeper who permits an adult to treat a minor in his place and furnishes the liquor is guilty under this section. (How. 5067; C. L. 5391; *People v. Newmann*, 85 Mich. 98.)

WIFE, HUSBAND, ETC., MAY HAVE RIGHT OF ACTION AGAINST PERSON FURNISHING LIQUOR FOR INJURIES TO PERSON OR PROPERTY RESULTING THEREFROM OR DUE TO SUCH CAUSE.

221. Every wife, child, parent, guardian, husband, or other person who shall be injured in person or property or means of support or otherwise, by any intoxicated person or by reason of the intoxication of any person, or by reason of the selling, giving or furnishing of any spirituous, intoxicating, fermented, or malt liquors, to any person, shall have a right of action in his or her own name against any person or persons who shall, by selling or giving any intoxicating or malt liquor, have caused or contributed to the intoxication of such person or persons, or who have caused or contributed to such injury, and the principal and sureties to the bond required of licensees for the sale of liquor, shall be liable severally and jointly with the person or persons selling, giving or furnishing any spirituous, intoxicating or malt liquors, as aforesaid, and in an action provided for in this section, the plaintiff shall have a right to recover actual and exemplary damages. In case of the death of either party, the action and right of action given by this section shall survive to and against his executor or administrator. And in every action by any wife, husband, parent, or child, general reputation of the relation of husband and wife, parent and child, shall be prima facie evidence of such relation, and the amount recovered by every wife or child shall be his or her sole and separate property. Any sale or gift of intoxicating or malt liquor by the lessee or occupant of any premises, resulting in damages, shall, at the option of the lessor, work a forfeiture of the lease, and the circuit court in chancery may enjoin the sale, giving away or furnishing of any intoxicating or malt liquors, by any lessee or occupant of the premises, which may result in loss or damage or liability to the lessor, or any person claiming under such lessor. (How. 5074; C. L. 5398.)

In a suit by the wife, injury and loss of future, as well as present, means of support may be taken into consideration; also her mental suffering, disgrace, loss of society and companionship, resulting from the intoxication. (*Friend v. Dunks*, 37 Mich. 25.) In such an action by the wife, the husband may not testify without the wife's permission. (*Wood v. Lentz*, 116 Mich. 275.)

DAMAGES ARISING FROM SALE OF LIQUOR—WHO MAY SUE WHEN SALE IS
TO A CHILD.

222. The damages in all cases arising under this act, together with the costs of the suit, shall be recoverable in an action of trespass on the case before any court of competent jurisdiction. And in any case where parents shall be entitled to such damages, either the father or the mother may sue alone therefor, but recovery by one of said parties shall be a bar to a suit brought by the other. (How. 5075; C. L. 5399.)

SLANDER—WORDS IMPUTING WANT OF CHASTITY TO A FEMALE ARE
ACTIONABLE PER SE.

223. Words imputing to any female a want of chastity shall be deemed to be actionable in themselves, and shall subject the person who shall utter and publish such words to an action on the case for slander, in the same manner as the uttering and publishing of words imputing the commission of a criminal offense. (Sec. 20, Chap. 20, P. A. 314, 1915.)

MAINTENANCE OF ILLEGITIMATE CHILDREN; COMPLAINT BY MOTHER OR PROS-
PECTIVE MOTHER—EXAMINATION OF COMPLAINANT—ARREST OF ACCUSED.

224. When any woman who has been delivered of a bastard child, or is pregnant with a child, which, if born alive, may be a bastard, shall make a complaint to any justice of the peace, and shall desire to institute a prosecution against the person whom she accuses of being the father of the child, the justice shall take her accusation and examination in writing, under oath, respecting the person accused, the time when and the place where the complainant was begotten with child, and such other circumstances as the said justice shall deem necessary for the discovery of the truth of such accusation. The said justice may issue his warrant against the party accused, which may be executed in any part of the state, and after hearing him in his defense, may require him to enter into recognizance with one or more sureties to the satisfaction of the justice in such sum as he may deem necessary, not less than one hundred nor more than five hundred dollars, upon condition to appear and answer to the said complaint at the next term of the circuit court for the county, and to abide the order of the court thereon, and may order him to be committed until he shall enter into such recognizance; and on the trial of the issue before the court, the examination taken as aforesaid shall be given in evidence. (How. 4986-7; C. L. 5901-2.)

SAME; TRIAL—FINDING BY THE JURY—ORDER BY THE COURT.

225. Upon the trial of the cause, the issue to the jury shall be, whether the defendant is guilty or not guilty; and if the jury shall find him guilty, or if he shall admit the truth of the accusation, he shall be adjudged to be the father of such child, and shall stand chargeable with the maintenance thereof, with the assistance of the mother, in such manner as the court shall order. The object of the statute is the protection of the public against support of the illegitimate child and it does not apply where the child lives out of the state, even though begotten within the state. Such person so adjudged to be the father of such child shall give bond to the superintendents of the poor of the

county, with sufficient sureties to the satisfaction of the court, to perform such order and also to indemnify the county which might be chargeable with the maintenance of such child; and he may be committed to prison until he shall give such bond; but if on such trial he shall be found not guilty, the court shall order that he be discharged; and in either case, the judgment of the court shall be final. In case of imprisonment, the expense of the imprisonment is to be borne by the public and not by the mother. (How. 4989-90; C. L. 5904-5; *Sutfin v. People*, 43 Mich. 37; *Waite v. Washington*, 44 Mich. 388.)

SAME; RELIEF OF PERSON IMPRISONED—FROM PRISON BUT NOT FROM CIVIL LIABILITY.

226. Any man who shall have been imprisoned six months for having failed to comply with the order of the circuit or superior court, as provided in the foregoing section, shall have the benefit of the laws for the relief of poor prisoners committed on execution for debt: *Provided*, That he shall procure the like notification of his intention to take the oath prescribed to poor debtors to be served on the complainant if still living in this state, and a like notice upon one of the said superintendents of the poor, and upon the prosecuting attorney of the county where such conviction shall have been had; such notification to be served at least thirty days before the time appointed for taking said oath: *Provided*, That the taking of such oath shall in nowise release the person taking the same from any civil liability to said complainant under an order of such circuit or superior court: *And Provided further*, That in the trial of any cause for the recovery of any sum of money ordered by the circuit court to be paid by any defendant for the support of any illegitimate child, a certified copy of such order shall be prima facie evidence of the liability of such defendant. The mother of such child, and the said county superintendents, respectively, may, at all times after the liberation of such prisoner on taking said oath, recover by action of debt or on the case any sum of money which ought to have been paid to them respectively by him in pursuance of such order of the court. (How. 4991-2; C. L. 5906-7.)

SAME; WHEN SUPERINTENDENTS OF POOR MAY CAUSE EXAMINATION OF WOMAN
—ARREST OF REPUTED FATHER—COMPROMISE WITH SUCH FATHER.

227. If any woman shall be delivered of a bastard child, which shall be chargeable or likely to become chargeable to any county, or shall be pregnant of a child likely to be born a bastard and to become chargeable to any county, the superintendents of the poor of any county, or any of them, where such woman shall be, shall, upon application for aid in supporting such child by the mother thereof, apply to some justice of the peace of the same county to make inquiry into the facts and circumstances of the case. Such justice shall examine such woman on oath respecting the father of such child, the time when and the place where she was begotten with child, and such other circumstances as the justice may deem necessary for the discovery of the truth; and shall thereupon issue his warrant to apprehend the reputed father; and the same proceedings shall be thereupon had as if complaint had been made by such woman. Any warrant issued for the apprehension of such reputed

father may be executed in any county in this state in which the person against whom the warrant is issued may be found. The superintendents of the poor of any county in this state shall have the power to make such compromise and arrangement with the putative father of any bastard child in such county, relative to the support of such child, as they shall deem equitable and just, and thereupon may discharge such putative father from all liability for the support of such bastard. (How. 4993-6; C. L. 5908-11.)

MATERNITY HOSPITALS; UNLAWFUL TO CONDUCT WITHOUT LICENSE.

228. It shall be unlawful for any person, society, association, organization or corporation to conduct, establish, maintain or carry on any maternity or lying-in hospital where females may be received, cared for, or treated during pregnancy, or during or after delivery, without having in full force a license therefor, as hereinafter provided, from the Board of Corrections and Charities. (Sec. 1, P. A. 263, 1913.)

SAME; APPLICATION FOR LICENSE—WHAT LICENSE SHALL SPECIFY.

229. Any person, society, association, organization or corporation desiring to obtain such license shall file with the Board of Corrections and Charities a written application endorsed by six or more persons of good moral character who are resident tax payers of the county where such maternity or lying-in hospital is to be located, and who shall certify to the respectability of the applicant, and that such hospital shall be used only for legitimate, moral and charitable purposes. Such license, if issued, shall continue in force one year, subject to revocation for cause by said board granting same. Every license issued must specify the name and residence of the person, or corporation, the place, and the approximate number of female patients thereby allowed to be received or kept therein at any one time. (Sec. 3, P. A. 263, 1913.)

SAME; WHAT RECORDS MUST BE KEPT—WHO MAY INSPECT—DISCLOSURE PROHIBITED.

230. Every licensee is required to keep a register of the name and address of each person admitted, the date of admission, and the date of birth of every child born on said premises; also a correct register of the name, age, color and sex of every child who is given out, adopted, taken away or indentured from such place, together with the name and residence of the person or persons so adopting, taking or indenturing such child. Each maternity or lying-in hospital and its records are subject to inspection and examination at any reasonable time by any member of the Board of Corrections and Charities, by its secretary, by any member of the local board of health, and by the principal agent of any duly incorporated society for the prevention of cruelty to children, but by no others. No person having access to records shall divulge or disclose the contents of the records or any of the particulars entered therein, and said records shall not be used in evidence in any civil or criminal action against any inmate of said institutions named herein. (Sec. 4-5, P. A. 263, 1913.)

SAME; PENALTY FOR VIOLATING THE PROVISIONS RE MATERNITY HOSPITALS.

231. A violation of the provisions of sections 228 to 230, *supra*, shall be deemed a misdemeanor under a penalty, for the first offense, of a fine not exceeding one hundred dollars, or imprisonment not exceeding three months in the county jail or the House of Correction; for the second and subsequent offenses, a fine of not less than one hundred dollars nor exceeding two hundred dollars, or by imprisonment not less than three months nor exceeding one year in the county jail or the House of Correction, or both fine and imprisonment in the discretion of the court. Nothing in this act shall be construed as authorizing any licensee to receive, maintain or place out any children other than those born in such maternity or lying-in hospital. (Sec. 6, P. A. 263, 1913.)

MEDICAL AND SURGICAL TREATMENT OF POOR PERSONS AND CARE OF PREGNANT WOMEN IN SUCH CASES; REPORT TO JUDGE OF PROBATE—INVESTIGATION.

232. Whenever it shall appear to any county agent of the Board of Corrections and Charities, or to any supervisor of any township, or to any superintendent of the poor of any county, that there is any adult legal resident of his county afflicted with any malady which can be remedied by proper care and medical or surgical treatment, or any pregnant woman, and that said person or pregnant woman is unable financially to secure proper care and medical or surgical treatment, it shall be the duty of such agent, supervisor, superintendent of the poor, or physician to report the same to the proper judge of probate of the county in which such person or pregnant woman resides. Upon the filing of said report with the judge of probate as aforesaid, it shall be his duty to cause a thorough investigation to be made of the financial condition of the case through the county agent or superintendent of the poor of his county, and to have a thorough examination and report and a complete history of the case made by a physician appointed by him for that purpose. (Sec. 1, P. A. 267, 1915.)

SAME; WHEN COURT MAY ORDER SUCH PREGNANT WOMAN OR OTHER POOR PERSON TAKEN TO THE UNIVERSITY HOSPITAL AT ANN ARBOR.

233. If upon such investigation it shall appear to said judge of probate that any person of either of the classes heretofore described is financially unable to secure proper care and medical or surgical treatment, and the physician so appointed to make said examination shall also certify that in his opinion the deformity or malady is of such a nature that it can be remedied by proper care and medical or surgical treatment, or that said pregnant woman is entitled to care and treatment, and is financially unable to secure the same, said judge of probate may make an order finding, determining and decreeing that such person is a resident of said county, and that such county is liable for the expenses of such person incurred under the provisions of this act, and directing that any such person be conveyed to the University Hospital at Ann Arbor for proper hospital care and medical or surgical treatment, the expense of said hospital care and treatment to be met in the manner hereinafter provided. The expenses of the medical or surgical treatment and hospital care of any child or children which may be born in the hospital of any woman sent to the hospital as hereinbefore

provided, as long as it shall seem necessary and proper in the judgment of the hospital physicians to keep such child or children in the hospital, shall be included in the expense as hereinafter provided: *Provided*, That no person or pregnant woman shall be received into said University Hospital for care and treatment unless in the judgment of the admitting physician there shall be a reasonable probability of such person being benefitted by such hospital care and medical or surgical treatment. (Sec. 2, P. A. 267, 1915.)

SAME; ADMISSION OF SUCH PERSON TO UNIVERSITY HOSPITAL—CARE AND TREATMENT—SALARIES AND EXPENSES, BY WHOM PAID.

234. It shall be the duty of the admitting officer to assign or designate the clinic of the University Hospital to which such person shall be assigned for treatment, and the physician or surgeon in charge of said person or pregnant woman shall proceed with proper care to perform such operation and bestow such treatment upon such person or pregnant woman as in his judgment shall be proper and necessary. A proper and competent nurse shall also be assigned to look after and care for said persons. No compensation shall be charged or received by the admitting officer, or by the physician, surgeons or nurses, other than the salaries received by them as provided by the Board of Regents of the University of Michigan. The county from which any such patient is sent under any such order and decree of the probate court shall be liable for all expenses incurred under the provisions of this act. (Sec. 3, 4, 8, P. A. 267, 1915.)

PROPHYLAXIS FOR TREATING EYES OF NEWLY BORN INFANTS—DUTY OF PHYSICIANS, NURSES, ETC.

235. It shall be the duty of the State Board of Health to officially name and approve a prophylaxis to be used in treating the eyes of newly born infants, and it shall be the duty of the board to publish instructions for using the same. It shall be the duty of any physician, nurse, or midwife who shall assist and be in charge at the birth of any infant, or have care of the same after birth, to treat the eyes of the infant with a prophylaxis approved by the State Board of Health; and such treatment shall be given as soon as practicable after the birth of the infant and always within one hour; and if any redness, swelling, inflammation or gathering of pus shall appear in the eyes of such infant, or upon the lids or about the eyes, within two weeks after birth, then any nurse, midwife or other person having care of the infant shall report the same to some competent practicing physician within six hours of its discovery. Any failure to comply with the provisions of this act, upon the part of such physician, nurse, midwife or other person hereinbefore mentioned, shall be punishable by a fine not to exceed one hundred dollars or imprisonment in the county jail not to exceed six months, or both such fine and imprisonment in the discretion of the court. (P. A. 123, 1913.)

DEPENDENT OF NEGLECTED CHILDREN—MOTHERS' PENSIONS.

236. When any child under the age of seventeen years shall be found to be a dependent or neglected child within the meaning of the act governing such cases, the court may make an order committing the child

to the care of some suitable state institution or to the care of some reputable citizen, or to the care of some training school or industrial school, or to the care of some duly incorporated and licensed association willing to receive it, embracing in its objects the purpose of caring for or obtaining homes for dependent or neglected children, which association shall have been approved by the State Board of Corrections and Charities: *Provided*, That if the mother of such dependent or neglected child is unmarried or divorced; or is a widow, or has been deserted by her husband; or if her husband has been declared insane, or is feeble-minded, epileptic or blind and is confined in a state hospital or other state institution; or is the wife of an inmate of some state penal institution serving sentence therein for crime; or is the wife of an inmate of a hospital for the treatment of insane persons who is confined therein for the purpose of being treated for insanity or other diseased mental condition; and such mother is poor and unable to properly care and provide for said child, but is otherwise a proper guardian, and it is for the welfare of such child to remain in the custody of its mother, the court, after investigation and report by the probation officer of the county, may enter an order finding such facts and fixing the amount of money necessary to enable the mother to properly care for such child, such amount not to exceed three dollars a week for each child. Thereupon it shall be the duty of the county treasurer of the county of which such child is a resident to pay from the general fund of such county, to such mother at such times as such order may designate, the amount so specified for the care of such dependent or neglected child until the further order of the court. Such order shall not require the approval of the board of supervisors or county auditor or auditors. The court shall, when the health or condition of the child shall require, cause the child to be placed in a public hospital or institution for special care or treatment, the expense to be paid from the general fund of the county of which the child is a resident. (P. A. 308, 1915.)

AID TO POOR FAMILIES TO ENABLE CHILDREN TO ATTEND SCHOOL.

237. Any truant officer of this state, when authorized by the board of education to investigate, and when satisfied that any child within his jurisdiction, required by law to attend school, is unable so to do by reason of the fact that the services of such child are absolutely required for the support of himself or herself, or to assist in the support and care of others legally entitled to his or her services, such person or persons being unable to support or care for themselves, such truant officer shall report the case to the board of education of the school district in which such child may reside, and such board of education may grant such relief as will enable the child to attend school during the entire school year. In all cases where such relief is necessary, the said board of education may furnish to such child the necessary text books free of charge, in addition to such other necessary assistance or support. For the purposes of this section, such board of education shall pay, during the school year, to the family of such child a sum not to exceed three dollars a week, nor more than six dollars a week for the children of any one family. (How. 3578-9; P. A. 198, 1911.)

CHAPTER XIX.

WOMEN'S CLUBS AND SOCIETIES.

WOMEN'S CLUBS.

HOW ORGANIZED—FOR WHAT PURPOSES—NAME.

238. Any number of women, not less than five, of full age, who may by articles of association executed under the provisions of this act, associate themselves for educational, literary, aesthetic, social, scientific, philanthropic, and sociological culture and inquiry, or any or all such purposes, shall constitute a body corporate under the name assumed by them in such articles (How. 8548; Sec. 1, P. A. 64, 1905.)

ARTICLES OF ASSOCIATION—WHAT TO CONTAIN.

239. The articles of association of every such corporation shall be signed by the persons associating and be acknowledged before some person authorized to take the acknowledgment of deeds, and shall state:

A. The name of such corporation, and the township, village, city, county or counties, or territory within this State, where its meetings are to be held.

B. The period for which it is incorporated, not exceeding thirty years.

C. The names and places of residence of the persons associating.

D. The objects for which the corporation is formed, which shall be limited to the purposes hereinbefore stated. (How. 8549; Sec. 2, P. A. 64, 1905.)

STATE CORPORATIONS AND FEDERATIONS—HOW FORMED.

240. State corporations, and federations composed of three or more associations of the same county, or two or more adjoining counties, may be organized as representative associations under this act, and may be composed of members of county, city, village or other local associations, under such conditions as to representation of such local associations as may be prescribed by the articles of association of such State or federated association. (How. 8550; Sec. 3, P. A. 64, 1905.)

ARTICLES OF ASSOCIATION—WHERE FILED.

241. Before any corporation formed under this act shall be deemed duly organized, its articles of association, or a duplicate thereof, shall be filed in the office of the Secretary of State of this State, and a copy of such articles, certified by the Secretary of State, or his deputy, shall be presumptive evidence of the facts therein stated, and of the incorporation of such association. (How. 8551; Sec. 4, P. A. 64, 1905.)

POWERS—DUTIES—ANNUAL REPORT. °

242. All corporations organized under the provisions of this act shall have all the powers necessary or incidental to the furtherance of the purpose of their organization, and shall be subject to all the liabilities imposed upon them by law. They shall adopt by-laws prescribing the qualifications and conditions of membership, the time and place of annual or general meetings, the mode of calling special meetings, the mode in which the governing body shall be elected and constituted, titles, duties and terms of office of all officers and such other matters as may not be inconsistent with the constitution and laws of this State. They shall have power to provide also by by-law what number of members less than a majority shall constitute a quorum and be competent to transact business at any general or special meeting of the members. They may take by gift, purchase, devise or otherwise, and may hold property, real and personal, to an amount not exceeding one hundred thousand dollars. They shall file with the Secretary of State in the month of January in each year, a report giving the names and postoffice addresses of their executive officers, and shall report such other facts as may be required by law. (How. 8552; Sec. 5, P. A. 64, 1905.)

HOW CLUB INCORPORATED UNDER OTHER LAWS MAY RE-INCORPORATE UNDER SECTIONS 238 TO 242.

243. Any women's club, already incorporated under the laws of this state for any of the purposes authorized by this act, may be reincorporated under the provisions of this act by a resolution to that effect, duly adopted by a majority vote of all the active members at any regular meeting of the club or at a special meeting called for that purpose. A certificate of such action, duly verified under oath by the president and secretary of such club, shall be filed in the office of the Secretary of State, and thereupon such club shall be deemed to be reincorporated under this act and shall be subject to all its provisions. (How. 8553; P. A. 290, 1905.) As to registration in, and receipt of books from, Michigan State Library, see section 277, *infra*.

WOMAN'S RELIEF CORPS.

HOW CORPS MAY BE INCORPORATED—ARTICLES OF ASSOCIATION.

244. The woman's relief corps auxiliary to the grand army of the republic, department of Michigan, and subordinate corps of the woman's relief corps auxiliary to posts of the grand army of the republic of the department of Michigan, may be incorporated in the manner herein described.

The president, senior vice-president, junior vice-president, secretary and treasurer of the department of Michigan woman's relief corps auxiliary to the grand army of the republic may make and execute articles of association under their hands and seals, which articles of association shall be acknowledged before some officer authorized by law to take acknowledgment of deeds and shall set forth:

A. The names of the officers above mentioned and their places of residence;

B. The corporate name by which the association shall be known.

C. The object and purposes of such association, which shall be to promote the general welfare of the order known as the woman's relief corps, and the period for which it is incorporated, which shall not exceed thirty years. (How. 8855-6; C. L. 7768-9.)

ARTICLES OF ASSOCIATION, WHERE FILED—POWER TO MAKE BY-LAWS AND RULES AND REGULATIONS, TO ACQUIRE, HOLD AND DISPOSE OF PROPERTY.

245. A copy of said articles of association, together with a copy of the rules and regulations of the woman's relief corps auxiliary to the grand army of the republic, shall be filed with and recorded in the office of the Secretary of State, and thereupon the persons who shall have signed such articles of association, their associates and successors shall be a body politic and corporate, and shall be persons in law capable to purchase, take, receive and hold and enjoy to them and their successors, estates, real and personal; of suing and being sued; and to have a common seal which may be altered or changed at pleasure: *Provided*, That the value of such real and personal estate shall not exceed the value of ten thousand dollars, and that they and their successors shall have power to give, grant, sell, lease, demise or dispose of real and personal estate or part thereof at their will and pleasure, the proceeds, rents and incomes to be disposed of as directed by the department at its annual meeting. Said corporation shall have full power to make and establish rules and by-laws for regulating and governing all the affairs and business of said corporation not repugnant to the constitution and laws of this state, or the United States, and to designate, elect or appoint from its members such officers under such name and style as shall be in accordance with the rules and regulations of the woman's relief corps auxiliary to the grand army of the republic. (How. 8857; C. L. 7770.)

POWER TO INSTITUTE AND CHARTER SUBORDINATE CORPS.

246. Such corporation shall have power to institute and charter corps auxiliary to the grand army of the republic within this state and from time to time to issue such orders for the government of corps as are not repugnant to the rules and regulations of the national convention of the woman's relief corps of the United States. (How. 8859; C. L. 7772.)

INCORPORATION OF SUBORDINATE CORPS—PROCEDURE—POWERS, DUTIES, ETC.

247. At any time when a subordinate corps, auxiliary to a post of the grand army of the republic, shall by a two-thirds vote of the members present at any regular meeting of said corps, resolve to become incorporated, the president, senior vice-president, junior vice president and secretary of such corps may make and execute articles of association under their hands and seals, specifying as provided in section 244, *supra*, and file a copy of the resolutions passed at a regular meeting of the corps, with the clerk of the county in which such corporation shall be formed, which shall be recorded by such clerk in a book to be kept in his office for that purpose, and thereupon such corps auxiliary to a post of the grand army of the republic, the officers thereof, their associates and successors, shall be a body politic and corporate by the name expressed in such articles of association, and by that name they and their successors shall have

successions and shall be persons in law with the same powers, duties and liabilities as the woman's relief corps department of Michigan have under section 245, supra, to which they are subordinate: *Provided*, That a certified copy of the record of such articles of association, under the seal of the circuit court of the county where such record is recorded, shall be received in all the courts of this state as prima facie evidence of the existence and due organization of such corporation. (How. 8860; C. L. 7773.)

SUFFRAGE ASSOCIATIONS.

TEN OR MORE PERSONS MAY INCORPORATE ARTICLES OF ASSOCIATION—WHAT TO CONTAIN.

248. Any ten or more persons, residents of this State, and being members of the Michigan Equal Suffrage Association, or of any auxiliary or subordinate equal suffrage association, desiring to form themselves into a corporation may become incorporated by making and executing articles of association under their hands, and acknowledging the same before some officer authorized by law to take the acknowledgment of deeds, and setting forth therein:

A. The names of persons associating in the first instance and their respective places of residence;

B. The corporate name by which said association shall be known in the law, and the place, if any, where its principal business office is to be kept; and

C. The object and purpose of such association, which shall be to secure the political enfranchisement of women, and their equality with men in all respects before the law, and the period for which it is incorporated, not exceeding 30 years. (How. 8804-5; C. L. 8495-6.)

ARTICLES OF ASSOCIATION—WHERE FILED—POWERS AND DUTIES—OFFICERS.

249. A copy of such articles of association must be filed and recorded in the office of the Secretary of State, and thereupon the persons who shall have signed and acknowledged the said articles of association, their associates and successors shall be a body politic and corporate by the name expressed; and may purchase, take, receive, hold and enjoy real and personal property and estate; sue and be sued; and have a common seal, which they may change and alter at their pleasure: *Provided*, That the value of such real and personal estate shall not exceed the value of fifty thousand dollars; and they and their successors shall have authority and power to give, grant, sell, demise or lease and dispose of said real estate, or any part thereof, at their will and pleasure, and the proceeds, rents and profits derived therefrom shall be devoted exclusively to the objects and purposes for which said association was formed, as expressed in its articles of association. Every such corporation shall have full power and authority to make and establish rules, regulations and by-laws for regulating and governing all the affairs and business of said corporation, according to the laws of this State, and to designate, elect or appoint from its members, such officers and agents as it shall deem necessary, and under such name and style as it may deem proper. (How. 8806; C. L. 8497.)

COLONIAL DAMES.

WHO MAY INCORPORATE—ARTICLES OF ASSOCIATION, WHAT TO CONTAIN.

250. Any twenty-five or more persons, residents of Michigan, being members of a National Society of Colonial Dames of America in Michigan, desiring to be incorporated, may make and execute articles of association under their hands and seals, which shall be acknowledged before some officer authorized by law to take acknowledgments of deeds and shall set forth:

A. The names and places of residence of the persons associating in the first instance.

B. The corporate name by which the association shall be known, provided that no persons associating under this act shall be allowed to take the same name as any association heretofore incorporated; the place of its principal business office, and the period for which it is incorporated, which shall not exceed thirty years.

C. The object and purpose of the association which shall be to collect manuscripts, traditions, relics and mementos of by-gone days for preservation, and to hold from time to time, as the society may direct, a loan exhibition to commemorate the success of the American revolution and consequent birth of our glorious republic; to diffuse healthful and intelligent information in whatever concerns the past and tends to create popular interest in American history; and, with a true spirit of patriotism, seek to inspire genuine love of country in every heart within its range of influence; and to teach the young that it is a sacred obligation to do justice and honor to heroic ancestors whose ability, valor, sufferings and achievements are worthy of praise. (How. 8888; C. L. 7864.)

ARTICLES OF ASSOCIATION, WHERE FILED—POWERS AND DUTIES—CONSTITUTION AND BY-LAWS.

251. A copy of said articles of association shall be filed with the Secretary of State, and thereupon the persons who have signed such articles of association, their associates and successors, shall be a body corporate and known in the law and in fact by the name assumed by them in said articles of association, and by that name they and their associates and successors shall have succession and be capable to purchase, take, hold, receive and enjoy real, personal and mixed property; to sue and be sued; to have a common seal; and shall have authority and power to give, grant, demise, sell, lease and dispose of such real and personal and mixed estate belonging to them, or any part thereof, as they may see fit. Said corporation shall have power to make and adopt a proper constitution and by-laws, prescribing the names and duties of its officers and all necessary and lawful rules and regulations for the government of its business. (How. 8889-90; C. L. 7865-6.)

CHAPTER XX.

MISCELLANEOUS PROVISIONS.

APPRENTICES; WHO MAY BE BOUND—HOW BOUND—WITH WHOSE CONSENT.

252. Every male infant and every unmarried female under the age of eighteen years (with the consent of the father; or the mother, if the father be dead, lacks legal capacity or has abandoned his family; or if the mother also be dead or lacks legal capacity, then with the consent of the guardian; or, if there be no parent living who possesses legal capacity and no guardian, then with the consent of two justices of the peace of the township where said infant resides or with the consent of the recorder of any city in the county or with the consent of the circuit or probate judge of such county), may of his or her own free will bind himself or herself in writing to serve as a clerk, apprentice or servant in any profession, trade, or employment; if a male, until the age of twenty-one years, and if a female, until the age of eighteen years or until her marriage within that age, or for any shorter time; and such binding shall be as valid and effectual as if such infant was of full age at the time of making such agreement. (How. 11609-10; C. L. 8749-50.)

SAME; RIGHT OF FATHER TO ASSIGN CONTRACT FOR SERVICES OF CHILD—
MOTHER OF ILLEGITIMATE CHILD PROPER PERSON TO GIVE CONSENT—
PROVISIONS NOT TO INTERFERE WITH DUTIES OF CERTAIN BENEVO-
LENT OR REFORMATIVE INSTITUTIONS FOR CHILDREN.

253. Nothing contained in the foregoing section shall prevent or affect the right of a father, by the common law, to assign a contract for the services of his children, for the term of their minority, or of any part thereof. The mother of an illegitimate minor child shall have the power to give the consent authorized to the binding of such child, during the lifetime of the putative father as well as after his death. The provisions of this act shall not in any manner interfere with the duties of the superintendents of the poor, or other officers, in regard to the State Public School for neglected and dependent children, or the reform school, or other benevolent or reformative institutions for children. (How. 11633-4-5; C. L. 8773-4-5.)

CUSTODY OF MINOR CHILD—CARE OF HIS EDUCATION, IN CASE OF APPOINTMENT OF GUARDIAN OF ESTATE.

254. In case of appointment of a guardian of the estate of a minor child, the father of such minor, and in case of his decease, the mother, being respectively competent to transact their own business, and otherwise suitable, shall be entitled to the custody of the person of the minor and to the care of his education: *Provided*, That if the judge of probate of the proper county shall in any case, after an examination into the facts, make an order declaring either or both of the parents incompetent or unsuitable to have the custody of the person or the care of the

education of the minor, in such cases the guardian appointed by the probate judge shall have the custody of the person of the minor and the care of his or her education. If the minor has no father or mother living, the guardian so appointed shall have the custody of the person and the care of the education of such minor. (How. 11557-8; Sec. 6-7, Chap. 58, P. A. 314, 1915.)

ADOPTION AND CHANGE OF NAME OF MINOR CHILD; WHO MAY GIVE NECESSARY
CONSENT.

255. Whenever any person or persons shall desire to adopt any minor child, and to change the name of such child, and to bestow upon him or her the family name of the person or persons adopting such child, or to adopt any minor child without a change of name, with intent to make such child his, her or their heir, such adoption, and in case a change of name is desired, such change of name, shall be with the consent of the persons hereinafter described, viz:

A. In case the parents of such child, or either of them are living, then with the consent of such parents or the survivor of them;

B. In case such child is abandoned by one of its parents, then with the consent of the other parent;

C. In case such child be illegitimate, then with the consent of its mother;

D. In case such child is an orphan or is abandoned by its parents or surviving parent, or by its mother if it be illegitimate, then with the consent of the nearest of kin or guardian of such child, or of the principal officer of any incorporated asylum, hospital or home of which such child may be an inmate, or of two superintendents of the poor of the county, or the director of the poor of any city or township of which such child is a resident, or of the principal officer of any institution, public or private, in this state or elsewhere, in whose care such orphan or abandoned child may be;

E. In case the parents, or surviving parent of such child, or the mother if said child be illegitimate, or the parent who has not abandoned it if such child has been abandoned by one of its parents, has or have surrendered and released, in a writing duly executed and acknowledged before an officer authorized by law to take acknowledgments, all his, her or their parental rights in and to such child and the custody and control thereof to an incorporated asylum, hospital or home of which such child may be an inmate, for the purpose of enabling such incorporated asylum, hospital or home to have said child adopted by some suitable person, its name changed when a change is desired, and the child made an heir at law under these provisions, then with the consent of the principal officer of any such incorporated asylum, hospital or home; and the aforementioned release executed by parent or parents as aforesaid to said asylum, hospital or home shall be filed with the instrument of adoption in the probate court;

F. In case said child is legally an inmate of the State Public School, then with the consent of the superintendent of such school, and the county agent of the State Board of Corrections and Charities for the county wherein the person adopting such child resides;

G. In case said child shall have been committed by an order of a court of competent jurisdiction to the care of any incorporated association.

embracing in its objects the purpose of caring for, and obtaining homes for, dependent or neglected children, approved by the State Board of Corrections and Charities, then with the consent of the principal officer of such association;

H. In any case heretofore described, if such child be above the age of ten years, then with the additional consent of such child;

I. In case any person herein designated as a parent, with whose consent such adoption and change of name is desired, shall be insane or mentally incompetent, then such adoption, and change of name where change of name is desired, shall be with the consent of the general guardian of such insane or mentally incompetent parent, and such consent of the general guardian shall have the same force and effect as if made by the insane or mentally incompetent person while in sound mind. (How. 11636-7; Sec. 1-2, Chap. 64, P. A. 314, 1915.)

SAME; ARTICLES OF ADOPTION, HOW EXECUTED—WHERE FILED.

256. Said person or persons desiring to adopt such child, together with his or her wife or husband, if any there be, and the person or persons, officer or agent required to consent thereto, shall make under their hands and seals an instrument in writing whereby they shall declare that such child, naming him or her by the name he or she has usually borne, is adopted as the child of the person or persons first above referred to, and that he, she or they intend to make such child his, her or their heir, and shall state the full name they desire such child shall bear. The execution of such instrument shall be acknowledged by the person so signing the same, before an officer authorized by law to take acknowledgments of deeds, and thereupon the same shall be presented to, and filed with, the judge of probate of the county where such person or persons adopting such child reside. (How. 11638-9; Sec. 3-4, Chap. 64, P. A. 314, 1915.)

SAME; INVESTIGATION AND ORDER BY PROBATE JUDGE—ADOPTED CHILD INHERITS FROM ADOPTING PARENTS.

257. Such judge of probate with whom such instrument is filed shall thereupon make an investigation, and if he shall be satisfied as to the good moral character, and the ability to support and educate such child, and of the suitability of the home of the person or persons adopting said child, he shall make an order to be entered on the journal of the probate court that such person or persons do stand in the place of a parent or parents to such child, and in case a change of name is desired, that the name of such child be changed to such name as shall be designated in said instrument for that purpose. Whereupon such child shall, in case of a change of name, thereafter be known and called by said new name, and the person or persons so adopting such child shall thereupon stand in the place of a parent or parents to such child in law, and be liable to all the duties and entitled to all the rights of parents thereto, and such child shall thereupon become and be an heir at law of such person or persons, the same as if he or she were in fact the child of such person or persons. But an adopted child does not inherit from the kindred of the adopted parents. (How. 11640; Sec. 5, Chap. 64, P. A. 314, 1915; *Van Derlyn v. Mack*, 137 Mich. 146.)

CHANGE OF NAME OF ADULT.

258. The probate court of any county, by order entered on its journal, may change the name of any adult person who has been one year a resident of such county who may petition in writing showing sufficient reason for the proposed change and absence of any fraudulent or evil intent; notice of intention to make such application must have been published six weeks prior to the making of such application and for three successive weeks in a newspaper printed and published in said county where the application is to be made, if there be one, or in a newspaper printed and published in an adjoining county, or in the nearest county in which a newspaper is or may be printed and published. Such judge of probate shall require of the person making such application payment to the county treasurer for the use of the county a fee of three dollars, and shall furnish to said applicant, if desired, a certified copy of the order made in such matter. (How. 11642-3; Sec. 6-7, Chap. 64, P. A. 314, 1915.)

For change of name in decree for divorce, see section 46, *supra*.

DORMITORY AT MICHIGAN SOLDIERS' HOME FOR WIVES, WIDOWS AND MOTHERS OF CERTAIN SOLDIERS, SAILORS AND MARINES.

259. There shall be erected upon the grounds of the Michigan Soldiers' Home a dormitory building, cottage or cottages, not to cost when completed a sum to exceed twenty-five thousand dollars, for the care of widows, wives and mothers of honorably discharged soldiers, sailors or marines who served in the Mexican war or the late civil war, or the Spanish-American war or the war in the Philippines: *Provided*, That the wife or widow of a soldier, sailor or marine must have lived in the state at least five years next preceding her application for admission and have been married to the soldier, sailor or marine previous to the year 1890, and must have arrived at the age of sixty years: *Provided further*, That any wife or widow of an honorably discharged soldier, sailor or marine having lived in the state at least five years next preceding her application for admission, who is totally disabled, shall be eligible to admission to said institution. (P. A. 217, 1913.)

BURIAL OF BODIES OF ARMY NURSES OR WIVES OR WIDOWS OF CERTAIN HONORABLY DISCHARGED SOLDIERS, SAILORS OR MARINES; PROVISION IN CERTAIN CASES—AMOUNT PAID.

260. Whenever any army nurse who was employed as a nurse by authority which is recognized by the war department, and who rendered actual service as a nurse in attendance upon the sick and wounded in any regimental post, camp or general hospital of the armies of the United States for a period of six months or more, and who was honorably relieved from such service, or the wife or widow of any honorably discharged Union soldier, sailor or marine who served in the army or navy of the United States during the civil war or the late war with Spain, shall die, not possessed of an estate, both real and personal, exceeding the sum of one thousand five hundred dollars, and is a resident of this State, it shall be the duty of the board of supervisors in the respective counties, or the board of county auditors in counties having a board of county auditors, upon application therefor by the executor or administra-

tor of the estate of such deceased person, or by the person or persons who may have incurred or advanced the expenses in connection with the burial of said army nurse, or the wife or widow of such soldier, sailor or marine, to pay to the estate of such deceased person, or to the person or persons who incurred or advanced such expense, a sum not to exceed fifty-five dollars for the purpose of reimbursing such person or persons for the expenses thus incurred. (How. 1734; Sec. 1, P. A. 235, 1911.)

SAME; APPOINTMENT OF PERSON TO INVESTIGATE—DUTIES—COMPENSATION.

261. It is the duty of the board of supervisors, or the board of county auditors in counties having such boards, to appoint in each township and ward, in their respective counties, a suitable person other than those designated for the care of paupers and the care of criminals, whose duty it shall be in the township or ward, whenever application is made for reimbursement by the county for such funeral expenses paid or advanced, or incurred for the burial of such deceased person, to make an investigation and report thereon to the clerk of the board appointing said person, in all cases setting forth all the facts, together with the rank and command to which the husband or deceased husband of such wife or widow belonged or the name and service rendered as such army nurse, the date of her death, place where buried, and her residence and occupation while living. The person so appointed shall require such person or persons who paid, advanced or incurred such burial expenses for such deceased person to furnish the said board with a sworn itemized statement of the expense incurred in the burial of the deceased person mentioned in the application for reimbursement. The person so appointed as aforesaid shall receive from the county the sum of two dollars per day for the time actually and necessarily employed by him in the performance of his duties. (How. 1735; Sec. 2, P. A. 235, 1911.)

SAME; DUTY OF CLERK OF THE BOARD OF SUPERVISORS OR COUNTY AUDITORS.

262. It shall be the duty of the clerk of the board so appointing him, upon receiving the report and statement of expenses provided for in the preceding section, to transcribe in a book kept for that purpose all the facts contained in said report, and to report such application and statement to said board at the next meeting thereof. It shall be the further duty of said clerk to cause a suitable headstone to be placed at the head of the grave of the deceased wife or widow of such soldier, sailor or marine, or army nurse, if the same shall now or hereafter be provided by act of Congress. (How. 1736; Sec. 3, P. A. 235, 1911.)

SAME; EXPENSES, HOW AUDITED AND PAID.

263. All expenses incurred in such burial as provided in this act shall be audited and paid by the said board of supervisors or board of county auditors in counties having a board of county auditors, the same as other legal charges against the county. (How. 1737; Sec. 4, P. A. 235, 1911.)

WOMEN'S AUXILIARY ASSOCIATION OF THE UNIVERSITY OF MICHIGAN—TAX EXEMPTION.

264. All property of the Women's Auxiliary Association of the University of Michigan, or held by any trustee for such association, while held and used solely for the purposes of the association, to-wit: For maintaining at the University of Michigan women as professors and instructors in the University, whose services shall be at the disposal of the faculty and regents of the University as teachers and lecturers, without charge to the University or the state of Michigan, shall be forever free and exempt from taxation in any form under the laws of the state of Michigan. (How. 2075; C. L. 3980.)

PLAY-GROUND ASSOCIATIONS; WHO MAY FORM—PURPOSES—ARTICLES OF ASSOCIATION, HOW EXECUTED—WHERE RECORDED.

265. Any number of persons, not less than five, who shall desire to form a corporation for the purpose of acquiring, owning, controlling, maintaining and improving lands for the purposes of parks, playgrounds, drives and boulevards, or any one or more of such purposes, and holding the same in trust for any one or more municipal corporations of this state, may, by articles of agreement in writing under their hands and seals, associate for such purposes under a name to be assumed by them in their articles of association: *Provided*, That no two corporations shall assume the same name. Such articles of association shall be signed by the persons associating in the first instance, and be duly acknowledged before some officer authorized by the laws of this state to take acknowledgments of deeds, and shall set forth:

- A. The name by which the corporation shall be known in law;
- B. The purpose or purposes for which the corporation is formed;
- C. The city, village or township where the office of the corporation shall be located;
- D. The municipality or municipalities for which the corporation is to hold property in trust;
- E. The names of those incorporating and their respective residences;
- F. The number of directors of the corporation.

The articles of association shall be recorded in the office of the Secretary of State, and in the office of the county clerk of the county where the office of such corporation is located. (How. 9464-5-6; Sec. 1-2-3, P. A. 161, 1911.)

SAME; POWERS OF PLAYGROUND CORPORATION WHEN ORGANIZED.

266. Upon the recording of such articles of association, the persons who have signed and acknowledged the same, their associates and successors, shall thereupon become a body politic and corporate and shall have power:

- A. To sue and be sued;
- B. To appoint and employ such officers, managers and agents as the affairs of the corporation may require;
- C. To make rules and by-laws for the regulation and management of its affairs, and alter and repeal the same;
- D. To acquire, hold, sell and convey all real and personal property suitable or necessary for the transaction of the business of the corpora-

tion, and to do all things in relation thereto, in the same manner and to the same extent as a natural person. (How. 9467; Sec. 4, P. A. 161, 1911.)

SAME; SHARES OF STOCK OR PECUNIARY PROFIT PROHIBITED—DIRECTORS, TERMS OF OFFICE, DUTIES, ETC.

267. The corporation shall not have any shares of stock or be for pecuniary profit. It shall have not less than five directors to be chosen annually from and by the members at the time and place fixed by the by-laws, they to hold office for one year and until their successors are elected. The directors shall manage the affairs of the corporation. (How. 9468; Sec. 5, P. A. 161, 1911.)

SAME; MEMBERS, LIFE AND ANNUAL—DUES.

268. There shall be two classes of members, life and annual. Any person may become a life member by paying to the corporation one hundred dollars or more in cash, or donating property or services of that value which the corporation is willing to accept. Any person over twenty-one years of age may become an annual member by the payment of one dollar or more; his membership to terminate if he fails to pay dues for any year, of at least one dollar, before the election of directors for the ensuing year. (How. 9469; Sec. 6, P. A. 161, 1911.)

SAME; GENERAL POWERS AND PURPOSES—CONDEMNATION PROCEEDINGS.

269. Corporations organized under this act shall have the power to govern, manage, control, lay out and improve parks, play-grounds, boulevards and pleasure drives over which their powers and jurisdiction extend, and shall have the right to purchase and by voluntary grants, bequests and donations to receive, take, hold and use all such lands and other property as may be necessary for carrying out their purposes; and if any such corporation shall at any time be unable to make a reasonable agreement with the owners of land needed as herein provided for the purchase thereof, or with any railroad company as to crossing its railroad, or with any municipal corporation as to crossing or changing highways, streets or streams, then in all such cases upon the vote of its board of directors, such corporation shall have the power to take such property, within the limits of the state constitution, as it may require in carrying out its purposes, and may bring suit therefor in any court of competent jurisdiction, and the laws of Michigan providing for the condemnation of lands for public use shall govern and be the rule of procedure so far as the same may be practicable and applicable thereto. (How. 9470; Sec. 7, P. A. 161, 1911.)

SAME; MUNICIPAL CORPORATIONS MAY TRANSFER TO SUCH CORPORATIONS IN TRUST REAL ESTATE HELD BY THE FORMER, OR MAY APPROPRIATE MONEY FOR THE USES AND PURPOSES OF SUCH CORPORATION.

270. Any municipal corporation, by vote of its governing body, may transfer to any such corporation in trust as hereinbefore provided, the management and control of any real property held by it, for the purpose of laying out, maintaining or carrying on parks, play-grounds, boule-

wards or pleasure drives, and may by like vote revoke the said transfer to such corporation and re-vest the management and control of said property in its own officers, at any time it shall be for the public benefit so to do. It shall be lawful for any such municipal corporation to appropriate, by a vote of its common council, or other governing body, to any such corporation, moneys for the uses and purposes of such corporation. (How. 9471-2; Sec. 8-9, P. A. 161, 1911.)

SAME; ALL LANDS ACQUIRED TO BE HELD IN TRUST FOR PUBLIC PARKS, ETC.,
EXEMPT FROM TAXATION.

271. All lands acquired by any corporation organized under this act or subject to its control and management shall be held in trust as aforesaid for public parks, play-grounds, boulevards and pleasure drives for the recreation, health, welfare and benefit of the public, and shall be free to all persons, subject to such necessary and reasonable rules and regulations as shall from time to time be adopted for the well-ordering and government thereof. And all such lands and personal property so held in trust for such purposes shall be exempt from taxation. (How. 9473; Sec. 10, P. A. 161, 1911.)

SAME; WHEN TRUSTEES AD INTERIM MAY BE APPOINTED BY THE COURT.

272. If any corporation organized under this act shall at any time fail, from any cause, to perform the duties of trustee as herein provided, and by reason of such failure injury may result to any of the drives, parks, playgrounds, boulevards or other property held by such corporation as trustee, or shall make unreasonable rules and regulations regarding the same, or do other acts to the permanent injury of the public, then upon petition to the circuit court in chancery of the county in which said corporation shall be located of any five citizens and freeholders residing within said county, said court may, upon notice to such corporation, appoint a day for hearing said petition, and if, upon such hearing, it shall appear that damage has resulted to, or is likely to result to, the public or to any of the property held by such corporation, said court may appoint such number of trustees ad interim as shall be deemed necessary to protect the interests of the public in said trust, until such time as the disability of said corporation as trustee shall have been removed. (How. 9474; Sec. 11, P. A. 161, 1911.)

SAME; UPON FAILURE TO HAVE MEMBERS, IF TRUSTEES AD INTERIM NOT APPOINTED, TITLE TO PROPERTY HELD IN TRUST VESTS IN THE MUNICIPALITY.

273. If any such corporation fail at any time to have members and no trustees ad interim shall have been appointed, then until such time as the disability of such corporation as trustee shall have been removed, the title to the property thus held in trust shall vest in the municipality or municipalities for which the corporation has held the same in trust. (How. 9475; Sec. 12, P. A. 161, 1911.)

SCHOOL HOUSES TO BE OPENED FOR PUBLIC MEETINGS—RECREATIONAL CENTERS.

274. The district school board shall have the care and custody of the school house and other property of the district, except so far as the same shall, by vote of the district, be especially confined to the custody

of the director, and shall open the school house for public meetings unless by a vote at the district meeting it should be determined otherwise: *Provided*, That said board may exclude such public meetings during the five school days of each week of any and all school terms, or such parts thereof as in their discretion they may deem for the best interest of the schools. (How. 9900; P. A. 146, 1901.)

PUBLIC CONVENIENCE STATIONS.

275. It shall be the duty of the common council of any city in this state, and of the board of trustees of any incorporated village, to cause to be constructed and maintained in such village or city not less than one public closet, commonly known and designated as a public convenience station, in such place or places as directed by the local board of health. Such closets or public convenience stations shall have thereon the proper signs and be so placed as directed by the local board of health as to be easily accessible from the business district or districts of such city or village, and shall be maintained in a sanitary manner under the supervision of the local board of health. Suitable and adequate accommodations shall be afforded at such public convenience stations to the members of both sexes. Any person destroying, mutilating, injuring, despoiling or abusing the property or any part thereof included within a public convenience station as provided herein, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than fifty dollars, or imprisonment in the county jail for a period of not more than sixty days, or by both such fine and imprisonment in the discretion of the court. (P. A. 285, 1915.)

TEACHERS' INSTITUTE FEES—WHEN COLLECTED—AMOUNT.

276. All boards or officers, authorized by law to examine applicants for certificates of qualification as teachers, shall collect at the time of examination from each male applicant for a certificate an annual fee of one dollar, and from each female applicant for a certificate an annual fee of fifty cents, and the director and secretary of any school board that shall employ any teacher who has not paid the fee hereinbefore provided, shall collect, at the time of making contract, from each male teacher so employed, an annual fee of one dollar, and from each female teacher so employed, an annual fee of fifty cents. All persons paying a fee as required by this section shall be given a receipt for the same, and no person shall be required to pay said fee more than once in any school year. (How. 10141; C. L. 4839.)

WOMEN'S STUDY CLUBS; REGISTRATION IN STATE LIBRARY.

277. Women's clubs, organized for the purpose of study, and having regularly elected officers, may become registered in the Michigan State Library and be entitled to all the privileges hereinafter enumerated. Clubs applying for registration must furnish the State Librarian with the names of its officers, its rules, and a copy of its program. It shall be the duty of the State Librarian to furnish the club with a certificate of registration and a copy of the rules which will govern transactions between the club and the State Library. (How. 653; P. A. 38, 1901.)

SAME; MAY SECURE BOOKS FROM STATE LIBRARY.

278. Under such reasonable rules as may be prescribed therefor, registered clubs shall be entitled to receive from the State Library a book or collection of books to be kept for a limited time, excepting reference books and those which on account of their value and rarity cannot be taken from the library. When a collection of books called a special traveling library shall be sent, the regular traveling library fee shall be paid. If one or several books shall be sent for a limited time by express, the user of the books shall pay all charges. (How. 654; P. A. 38, 1901.)

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